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H.B. 9, 2006

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DOMESTIC VIOLENCE BILL, 2006

MEMORANDUM

This Bill will provide for protection and relief to victims of domestic violence. It was discovered after worldwide research that domestic violence is a serious problem. The United Nations called for global action to end violence against women, in particular hence, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) which Zimbabwe have signed and ratified. The SADC heads of State or Government on 14 September, 1998 in Mauritius signed an addendum to the 1997 Declaration on Gender and Development on "The Prevention and Eradication of Violence against Women and Children" and resolved to adopt measures aimed at enacting laws making various forms of violence against women, clearly defined crimes with appropriate penalties in order to prevent and eradicate domestic violence.

It is the purpose of this Bill to afford the victims of domestic violence the maximum protection from domestic violence that the law can provide and to introduce measures which seek to ensure that the relevant organs of the State give full effect to the provisions of this Bill.

The individual clauses of the Bill provide as follows:

Clause 1

This clause sets out the Bill's short title.

Clause 2

This clause will define terms that are used elsewhere in the Bill.

Clause 3

This clause seeks to outline the meaning and scope of domestic violence. Under the current common law offences, there is no offence called domestic violence. What has been happening is that once any form of domestic violence is reported to the police, it would be slotted into any of the common law offences of assault common; assault with intent to do grievous bodily harm; indecent assault and many others. This therefore, tended to limit the scope of domestic violence since any other act of domestic violence that failed to fit in the existing common law offences would not be considered as an offence. The phenomenon of domestic violence has for long been conceived primarily as a private family affair to be resolved silently within the four walls of the home. Whereas the privacy of the home and the centrality attributed to intimate relations are valued, privacy and intimacy often provide the opportunity for violence and the justification for non-interference. Thus, it is the purpose of the clause to outline all acts of domestic violence which should be considered as punishable under the law.

Thus, this clause seeks to widen the scope of domestic violence to include physical abuse, sexual abuse, emotional, verbal and psychological abuse, economic abuse, intimidation, harassment, stalking, damage to property, entry into complainant's place without consent where the parties do not share the same residence, depriving or hindering the complainant from access to his or her place of residence, depriving the complainant of a reasonable share of the use of the facilities associated with his or her place of residence. Also considered as domestic violence is the abuse derived from cultural or customary rites or practices that discriminate or degrade women such as forced virginity testing, female genital mutilation, pledging of women and girls for purposes of appeasing spirits, abduction, child marriages, forced marriages, forced wife inheritance and other such practices. The abuse perpetrated on the complainant by virtue of his or her age, physical or mental incapacity is also considered as domestic violence under this clause.

This clause goes further to define some of the forms of domestic violence outlined above for the avoidance of doubt.

Clause 4

This clause makes it mandatory for every police station to have a section to deal with domestic violence matters and also places a legal duty on the police to assist a complainant of domestic violence. This clause makes it incumbent on the police to assist the complainant to obtain shelter, medical treatment and in any other way. The police are also supposed to advise the complainant of his or her right to seek relief under this Act or to lodge a criminal complaint. This clause also gives the complainant the right to choose to make a report to or have a statement recorded by a police officer of the same sex as him or her. Every police station is obliged to have a domestic violence section to be manned by officers trained to handle domestic violence cases where it is possible.

Clause 5

This clause gives the police the power to arrest forthwith, without a warrant any person reasonably suspected to have committed or who is threatening to commit an act of domestic violence on a complainant. The clause also outlines the factors to be considered by a police officer before effecting the arrest without a warrant. Any person so arrested is to be brought before a magistrate within forty-eight hours.

Clauses 6 and 7

These clauses provide for the making of an application for a protection order and the determination thereof. The clause give the *locus standi* to make an application for a protection order to a wide variety of persons besides the complainant and these include a person acting with the consent of the complainant, a person having care or custody of the complainant and also a complainant's representative. The complainant's representative can make an application only with the leave of the court and does not need the complainant's consent. This therefore ensures that most if not all cases of domestic violence will be brought to the courts. An application for a protection order can be brought to court outside the ordinary court hours and on any day. Such an application has to be dealt with as soon as possible and the court can call for evidence either orally or by affidavit.

Clauses 8, 9 and 10

Clauses 8, 9 and 10 provide for the issuing of an interim protection order, a final protection order and the contents thereof respectively. Whilst a protection order is issued after the court

has had the opportunity to consider evidence, an interim protection order may be issued on receipt of the application once the court is satisfied that *prima facie* the respondent has committed, is committing or is threatening to commit an act of domestic violence and it is necessary to immediately issue an order to protect the complainant from serious harm, discomfort or inconvenience as a result of such domestic violence.

Whenever a court issues an interim protection order or final protection order it shall also issue a warrant for the arrest of the respondent which shall only be suspended when the respondent complies with the order. The issue of an interim protection order and a protection order shall not in any way bar criminal proceedings against a person perpetrating domestic violence. *Clause 10* provides for the contents of both an interim protection order and a protection order which basically are prohibitions on the respondent from committing or enlisting the help of another person to commit any act of domestic violence.

Clauses 11 and 12

Clause 11 provides for the circumstances under which an interim protection order or protection order may be revoked, varied or extended by the court on application by either the complainant, complainant's representative or the respondent. *Clause 12* provides for the issuing of further copies of protection orders and warrants of arrest in the event of the original ones getting lost, destroyed or utilised in effecting the arrest of the respondent.

Clause 13

This clause provides for the enforcement of both the interim protection order and protection order and the circumstances under which any police officer may arrest a respondent for non-compliance with either order.

Clauses 14 and 15

Clause 14 provides for the appointment of anti-domestic violence counsellors and also spells out their functions. *Clause 15* provides for the establishment of an Anti-Domestic Violence Committee whose members shall be representatives of various government ministries and departments and those private voluntary organisations specialising in issues related to domestic violence, children's rights and women's rights. The Committee shall be headed by a Chairperson and a deputy Chairperson both must be persons qualified or experienced in prescribed disciplines. The clause also sets out the functions of the Committee which are basically to keep under constant review the problem of domestic violence and to monitor the application and enforcement of this Act. The Committee is given power under this clause to appoint one or more sub-committees to operate in provinces or districts throughout the country.

Clause 16

This clause criminalises all acts of domestic violence as defined in section 3 with the exception of emotional, verbal and psychological abuse and economic abuse and stipulates the relevant penalty. It also makes it an offence for any person to make any false statement in an application or affidavit made in terms of this Act and stipulates the relevant penalty. It also makes it an aggravating factor to commit any other criminal offence within a domestic set-up.

Clause 17

This clause gives the Minister authority to make regulations on anything necessary for giving effect to this Act.

DOMESTIC VIOLENCE BILL, 2006

ARRANGEMENT OF SECTIONS

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PRELIMINARY

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2. Interpretation.
3. Meaning of domestic violence and its scope.

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PRESENTED BY THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS

BILL

To make provision for the protection of and relief to victims of domestic violence and to provide for matters connected with or incidental to the foregoing.

ENACTED by the President and the Parliament of Zimbabwe.

PART I

PRELIMINARY

1 Short title and date of commencement

(1) This Act may be cited as the Domestic Violence Act, 2006.

(2) This Act shall come into operation on a date to be fixed by the President by statutory instrument:

Provided that the President may fix different dates of commencement for different provisions of this Act.

2 Interpretation

(1) In this Act-

"complainant", in relation to a respondent, means-

- (a) a current, former or estranged spouse of the respondent; or
- (b) a child of the respondent, whether born in or out of wedlock, and includes an adopted child and a step-child; or
- (c) any person who is or has been living with the respondent, whether related to the respondent or not; or
- (d) any person who-
 - (i) cohabits with the respondent; or
 - (ii) is or has been in an intimate relationship with the respondent;

who applies for a protection order or in respect of whom a protection order may be issued;

"complainant's representative" means any of the following persons who may make an application for a protection order on behalf of a complainant-

- (a) a police officer;
- (b) a social welfare officer;

- (c) an employer of the complainant;
- (d) a person acting on behalf of—
 - (i) a church or other religious institution;
 - (ii) a private voluntary organisation concerned with the welfare of victims of domestic violence;
- (e) a relative, neighbour or fellow employee of the complainant;
- (f) a counsellor;
- (g) such other class of persons as the Minister may appoint by notice in a statutory instrument;

"Committee" means the Anti-Domestic Violence Committee established in terms of section 15;

"counsellor" means an anti-domestic violence counsellor appointed in terms of section 14;

"court" means a magistrates court or the High Court;

"domestic violence" means violence as defined in section 3;

"Minister" means the Minister of Justice, Legal and Parliamentary Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act;

"private voluntary organisation" means a private voluntary organisation registered in terms of the Private Voluntary Organisations Act [*Chapter 17:05*] or any other law that may be substituted for it;

"protection order" means an order issued in terms of section 9;

"respondent" means a person who is alleged to be the perpetrator of an actual or threatened act of domestic violence;

"social welfare officer" means a person registered as a social worker in terms of the Social Workers Act [*Chapter 27:21*] (No. 9 of 2001) or employed in any Ministry responsible for social welfare, health, child welfare or gender or women's affairs.

3 Meaning of domestic violence and its scope

(1) For the purposes of this Act, domestic violence means any unlawful act, omission or behaviour which results in death or the direct infliction of physical, sexual or mental injury to any complainant by a respondent and includes the following-

- (a) physical abuse;
- (b) sexual abuse;
- (c) emotion, verbal and psychological abuse;
- (d) economic abuse;
- (e) intimidation;
- (f) harassment;
- (g) stalking;
- (h) damage to property;

- (i) entry into complainant's residence without consent where the parties do not share the same residence;
 - (j) depriving the complainant of or hindering the complainant from access to or a reasonable share of the use of the facilities associated with the complainant's place of residence;
 - (k) the unreasonable disposal of household effects or other property in which the complainant has an interest;
 - (l) abuse derived from any cultural or customary rites or practices that discriminate or degrade women, such as forced virginity testing, female genital mutilation, pledging of women or girls for the purposes of appeasing spirits, abduction, child marriage, forced marriage, forced wife inheritance, sexual intercourse between fathers-in-law and newly married daughters-in-law, and other such practices;
 - (m) abuse perpetrated on the complainant by virtue of complainant's age, or complainant's physical or mental incapacity;
 - (n) any act of domestic violence described in paragraphs (a), (b), (c), (e), (f), (g), (h) or (i) when it is perpetrated on the person or property of the complainant's representative.
- (2) For the purposes of-
- (a) subsection (1)(a), "physical abuse" includes any act or threatened act of physical violence towards a complainant;
 - (b) subsection (1)(b), "sexual abuse" includes any conduct that humiliates, degrades or otherwise violates the sexual dignity of the complainant;
 - (c) subsection (1)(c), "emotional, verbal and psychological abuse" means a pattern of degrading or humiliating conduct towards a complainant, including but not limited to the following-
 - (i) repeated insults, ridicule or name-calling; or
 - (ii) repeated threats to cause 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 privacy, liberty, integrity or security; or
 - (iv) any act, omission or behaviour constituting domestic violence as defined in subsection (1) which, when committed in the presence of minor members of the family, is likely to cause them mental injury; or
 - (v) unreasonable denial of conjugal rights;
 - (d) subsection (1)(d), "economic abuse" includes-
 - (i) the unreasonable deprivation of economic or financial resources to which a complainant is entitled under the law or which the complainant requires out of necessity, including household necessities, medical expenses, school fees, mortgage bond and rent payments, or other like expenses;
 - (ii) denying the complainant the right to seek employment or engage in any income-generating activity;

- (e) subsection (1)(e), "harassment" means engaging in a pattern of conduct that induces in a complainant the fear of imminent harm or feelings of annoyance and aggravation, including-
 - (i) watching or loitering outside or near the building or place where the complainant resides, works, carries on business, studies or happens to be;
 - (ii) repeatedly making or sending or causing another person to repeatedly make or send abusive phone calls or electronically-transmitted messages to the complainant, whether or not conversation ensues;
 - (iii) sending, delivering or causing the delivery of offensive or abusive letters, telegrams, packages, facsimiles, electronic mails or offensive objects to the complainant;
- (f) subsection (1)(f), "intimidation" includes uttering or conveying a threat or causing a complainant to receive a threat which induces a fear of imminent harm in the complainant;
- (g) subsection (1)(g), "stalking" includes following, pursuing, or accosting the complainant.

(3) For the purposes of subsection (2)(e) and (f) "imminent harm", in relation to a complainant, includes harm that the complainant fears to be imminent taking into consideration the history of respondent's known violent behaviour towards the complainant or other relevant factors.

PART II

DUTIES OF POLICE AND POWERS OF ARREST IN RESPECT OF DOMESTIC VIOLENCE

4 Duties of police officers in relation to domestic violence

(1) There shall be a section at every police station which shall, where practically possible, be staffed by at least one police officer with relevant expertise in domestic violence or other family-related matters.

(2) A police officer to whom a complaint of domestic violence is made or who investigates any such complaint shall-

- (a) obtain for the complainant, or advise the complainant how to obtain shelter or medical treatment, or assist the complainant in any other suitable way;
- (b) advise the complainant of the right to apply for relief under this Act and the right to lodge a criminal complaint:

Provided that, where a complainant so desires, the statement of the nature of the domestic violence suffered by the complainant shall be taken by a police officer of the same sex as that of the complainant.

(3) A complainant who is not satisfied with the services of a police officer to whom he or she has reported a case of domestic violence shall have the right to register a complaint in accordance with any procedure prescribed for that purpose under section 17.

5 Arrest by police officer without warrant

(1) A police officer shall, after taking into account the factors mentioned in subsection (2), arrest without warrant any person whom he or she reasonably suspects has committed or who is

threatening to commit an act of domestic violence which, in terms of section 16, constitutes a criminal offence towards a complainant.

(2) In considering whether or not to arrest any person in terms of subsection (1), a police officer shall take into account-

- (a) the risk to the safety, health or well-being of the complainant; and
- (b) the seriousness of the conduct constituting the alleged act of domestic violence referred to in subsection (1); and
- (c) any other factor that makes him or her to reasonably believe that the person has committed or is threatening to commit an act of domestic violence referred to in subsection (1).

(3) The police officer shall take all reasonable steps to bring the person suspected of having committed or threatening to commit an act of domestic violence before a magistrate within forty-eight hours.

PART III

PROTECTION ORDERS

6 Application for protection order

(1) Where an act of domestic violence has been or is being committed or is threatened, an application for a protection order may be made to a court by-

- (a) the complainant; or
- (b) any person acting with the consent of the complainant; or
- (c) any person having care or custody of a complainant who is a minor; or
- (d) any person acting as the complainant's representative, with or without the consent of the complainant:

Provided that the complainant's representative shall seek the leave of the court to make an application for a protection order without the consent of the complainant.

(2) In determining whether or not to grant leave in terms of the proviso to subsection (1)(d) the court shall have regard to all the circumstances including-

- (a) the reasons why the consent of the complainant has not been obtained; and
- (b) generally, whether or not it is in the best interests of the complainant that the application be permitted despite the absence of the complainant's consent.

(3) An application for a protection order shall be lodged with the clerk or registrar of the court and, where directed by the court, shall be supported by the affidavit of any person who can depose to matters which are relevant to the application.

(4) If the complainant is not represented by a legal practitioner, the clerk or registrar of the court shall inform the complainant of-

- (a) the relief available in terms of this Act; and
- (b) the effect of any order which may be granted and the means provided by law for its enforcement under this Act; and
- (c) the right to also lodge a criminal complaint against the respondent if a criminal offence has been committed by the respondent; and

- (d) the right to claim compensation for any loss suffered or injury caused by any act of domestic violence.

(5) The clerk or registrar of the court shall, as soon as possible and in any event not later than forty-eight hours after the application for a protection order has been lodged with him or her, place the application before the court.

(6) The application for a protection order may be brought outside ordinary court hours or on a day which is not an ordinary court day, if the court is satisfied that the complainant may suffer undue hardship if the application is not dealt with immediately.

7 Determination of application

(1) The court shall as soon as possible consider an application made in terms of section 6 and may for such purpose-

- (a) enquire whether an interim protection order or protection order has at any time been issued to either of the parties;
- (b) call for such evidence, whether oral or by affidavit, as it considers necessary, including medical evidence:

Provided that any such medical evidence shall be supported by a police report forming the basis on which an examination of a victim of domestic violence was made;

- (c) examine any witness before the court.

(2) Where the inquiry provided for in subsection (1)(a) reveals that there is an existing interim protection order or protection order the court shall-

- (a) consider whether there is any change in circumstances that warrants the granting of a fresh protection order; and
- (b) where appropriate, direct the parties to make application under section 11.

8 Issue of interim protection order

(1) Where, upon an application made in terms of section 8, the court is satisfied that *prima facie*-

- (a) the respondent has committed, is committing or is threatening to commit an act of domestic violence; and
- (b) it is necessary or desirable to issue immediately an order to protect the complainant from serious or substantial harm or discomfort or inconvenience, whether, physical, emotional or economic, which results or may result from such actual or threatened domestic violence;

the court shall issue an interim protection order against the respondent notwithstanding that he or she has not been given notice of the application or has not been before the court.

(2) An interim protection order may, where appropriate, contain any direction, prohibition or award which may be contained in a protection order issued in terms of section 9.

(3) An interim protection order must be served on the respondent in the prescribed manner and must contain a notice calling upon the respondent to show cause, on a date specified in the order, why a protection order should not be issued.

(4) Whenever a court issues an interim protection order the court shall issue a warrant for the arrest of the respondent which shall be attached to the order and which shall be suspended on condition that the respondent complies with the order.

(5) Where upon an application made in terms of section 6 the court is satisfied that *prima facie* 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 interim protection order, it may issue a notice calling upon the respondent to show cause why a protection order should not be made.

(6) An interim protection order (together with the suspended warrant of arrest issued in terms of subsection (4)) or a notice issued in terms of subsection (5) shall be served upon the respondent as soon as possible by any police officer:

Provided that, where the complainant so requires, service may be effected, at the complainant's expense, by the messenger of the court or deputy sheriff, as the case may be.

(7) The clerk or registrar of the court that issues an interim protection order shall supply the complainant or the complainant's representative with a certified copy of any interim protection order (together with the suspended warrant of arrest issued in terms of subsection (4)) or notice issued in terms of subsection (5), and additionally, or alternatively, forward the same to the police station nominated by the complainant or the complainant's representative.

(8) An interim protection order shall remain in force until it is replaced by a protection order or varied or revoked by a competent court.

(9) Any person who fails to comply with the terms and conditions of an interim protection order shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

9 Issue of protection order

(1) On the return day specified in an interim protection order or in a notice issued in terms of section 8(5), the court may issue a protection order if satisfied on a balance of probabilities that an act of domestic violence has been committed, is being committed or is threatened by the respondent.

(2) A protection order may be issued in the absence of the respondent if the court is satisfied that the respondent has been served with or has otherwise had notice of the application for such an order.

(3) Whenever a court issues a protection order the court shall issue a warrant for the arrest of the respondent which shall be attached to the order and which shall be suspended on condition that the respondent complies with the order for a period of at least five years.

(4) For the purpose of determining whether or not to issue a protection order the court may-

- (a) call for such evidence, whether oral or by affidavit, as it considers necessary, which shall form part of the record of the proceedings; and
- (b) consider any evidence previously received in terms of section 7(1); and
- (c) examine any witness before the court.

(5) A protection order shall be served upon the respondent as soon as possible, and in any event not later than forty-eight hours after it is issued, by a police officer:

Provided that, where the complainant so requires, service may be effected at the complainant's expense, by the messenger of court or deputy sheriff, as the case may be.

(6) The clerk or registrar of the court shall supply a certified copy of any protection order issued in terms of subsection (1), to the complainant or the complainant's representative, and additionally, or alternatively, to the police station nominated by the complainant or the complainant's representative.

(7) Any respondent who fails to comply with the terms and conditions of a protection order shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

(8) Any respondent who repeatedly breaches a protection order, whether or not that respondent has been previously prosecuted for such breach, shall be guilty of an offence and liable to imprisonment for a period not exceeding five years.

(9) An application for a protection order shall not in any way bar criminal proceedings against a respondent.

(10) Where appropriate, the court may, in addition to other remedies provided for under this Act, order that the complainant or the respondent, or any other affected member of the family of the complainant or respondent, undergo counselling by a counsellor.

10 Contents of a protection order

- (1) A protection order may, where appropriate-
 - (a) prohibit the respondent from committing or enlisting the help of another person to commit any act of domestic violence;
 - (b) direct the respondent to stay away from any premises or place where the complainant resides, or any part of such premises or place;
 - (c) prohibit the respondent from entering or approaching any place or premises where or at which the complainant works, attends or frequents, or any part of such premises or place;
 - (d) direct the respondent to pay emergency monetary relief in respect of the complainant's needs and those of any child or dependant of the respondent, including household necessities, medical expenses, school fees and mortgage bond or rent payments;
 - (e) award the temporary custody of any child or dependant of the respondent to any person or institution and regulate rights of access by the respondent to such child or dependant;
 - (f) direct the respondent to afford the complainant or any child or dependant of the complainant access to their place of residence and use of the facilities associated therewith;
 - (g) direct the respondent to pay adequate compensation in the prescribed manner for any personal or physical injury, pain, trauma or loss suffered by the complainant;
 - (h) direct that the complainant or the respondent or both undergo counselling by a counsellor with the respondent paying all the necessary expenses;
 - (i) generally, 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 complainant or any child or dependant of the complainant.

(2) Subject to subsection (3), a protection order shall remain in force for a minimum period of five years or until revoked or varied by the court in terms of section 11.

(3) Any direction to pay emergency monetary relief and any award of temporary custody of any person which is contained in a protection order shall remain in force for such period not exceeding six months as the court may specify unless, prior to the expiry of that period, the direction or award is revoked or extended by the court in terms of section 11 or an order or award is made in respect of the same matter by any other competent court:

Provided that no such extension shall exceed a period of three months at a time.

11 Application for revocation, variation or extension of protection orders

(1) Where there is a change of circumstances, a complainant, complainant's representative or a respondent may apply to the court for the revocation or variation of an interim protection order or a protection order or for the extension of any time limit attached to any direction or award contained therein.

(2) A complainant's representative may, with the leave of the court, apply for a revocation, variation or extension of a protection order without the consent of the complainant and the court, in determining whether or not to grant leave, shall have regard to all the circumstances including those referred to in section 6(2).

(3) A complainant's representative shall not, under any circumstances, make an application for a revocation, variation or extension of a protection order that may prejudice the complainant.

(4) An application under subsection (1) or (2) shall be lodged with the clerk or registrar of the court who shall-

- (a) fix a date for the hearing of the application; and
- (b) place the application before the court as soon as possible, and in any event not later than forty-eight hours after lodging the application; and
- (c) give notice of the date of hearing to other interested parties.

(5) On the date fixed for the hearing of the matter, the court shall consider the application and may for that purpose-

- (a) call for such evidence, whether oral or by affidavit, as it considers necessary;
- (b) examine any witness before the court.

(6) If the court is satisfied that good cause has been shown it may revoke or vary any interim protection order or protection order or may extend any such order by a period not exceeding twenty-four months.

(7) The clerk or registrar of the court shall give notice to interested parties of any revocation, variation or extension granted in terms of this section.

12 Issue of further copies of orders and warrants of arrest

A complainant, complainant's representative or police officer may apply to the clerk or registrar of a court for a further certified copy of an interim protection order or protection order, together with the relevant warrant of arrest attached thereto, if the copy which was previously issued-

- (a) has been lost or destroyed; or
- (b) has been utilised for effecting the arrest of the respondent.

13 Enforcement of protection order

(1) If, within five years after the date of issue of an interim protection order or protection order, the respondent breaches any term or condition of the order, the complainant or the complainant's representative may request any police officer to enforce the warrant of arrest attached to the order.

(2) A request in terms of subsection (1) shall be accompanied by one or more affidavits given by a person or persons who can depose to the facts alleged in connection with the breach of the interim protection order or protection order.

(3) If a police officer to whom a request in terms of subsection (1) is made is satisfied that-

- (a) the respondent concerned has been served with or has had notice of the order; and
- (b) there are reasonable grounds for believing that-
 - (i) the respondent concerned has committed, is committing or is threatening to commit a breach of the order concerned; and
 - (b) it is necessary or desirable to do so to protect the complainant from serious or substantial harm, discomfort or inconvenience, whether, physical, emotional or economic;

he or she shall arrest the respondent in terms of the warrant concerned.

(4) A respondent arrested in terms of subsection (3) shall be held in custody and brought before a court as soon as possible and in any event not later than forty-eight hours after the arrest on a charge of contravening section 8 or 9, as the case may be.

(5) Where a police officer to whom a request in terms of subsection (1) is made is satisfied that-

- (a) the respondent concerned has been served with or has had notice of the order; and
- (b) there are reasonable grounds to believe that the respondent concerned has committed, is committing or is threatening to commit a breach of the order concerned; and
- (c) it is not necessary or desirable to arrest the respondent in terms of any warrant of arrest attached to the order;

he or she shall serve a summons on the respondent to appear before a court on a charge of contravening section 8 or 9, as the case may be.

PART IV

ANTI-DOMESTIC VIOLENCE COUNSELLORS AND ANTI-DOMESTIC VIOLENCE COMMITTEE

14 Anti-domestic violence counsellors

(1) For the better implementation of this Act, the Minister shall in consultation with the Ministers responsible for social welfare, health, child welfare and gender or women's affairs, appoint a panel consisting of-

- (a) social welfare officers; and
- (b) members or employees of private voluntary organisations concerned with the welfare of victims of domestic violence;

who shall carry out the duties of anti-domestic violence counsellors in terms of this Act:

Provided that this section shall not limit the right of any complainant or respondent to obtain professional counselling from any person other than an anti-domestic violence counsellor.

(2) An anti-domestic violence counsellor shall have the following functions-

- (a) advising, counselling and mediating the solution of any problems in personal relationships that are likely to lead or have led to the use of domestic violence; and
- (b) carrying out, upon the instruction of a court, investigations in relation to the financial status of complainants and respondents; and
- (c) carrying out investigations and making arrangements for the accommodation of the complainants prior to the issue of an interim protection order or protection order; and
- (d) making immediate arrangements for the medical or other examination of a child where there is a reasonable suspicion that he or she is a complainant; and
- (e) providing counselling to complainants and respondents; and
- (f) performing any other function which the Minister may assign to him or her for the purposes of this Act.

(3) An anti-domestic violence counsellor may, in carrying out his or her duties, seek the assistance of any police officer.

15 Anti-Domestic Violence Committee

(1) The Minister shall establish an Anti-Domestic Violence Committee, which shall consist of at least one representative nominated by each of the following and appointed by the Minister-

- (a) the Ministry responsible for justice; and
- (b) the Ministry responsible for gender or women's affairs; and
- (c) the Ministry responsible for health and child welfare; and
- (d) the Department of Social Welfare in the Ministry responsible for social welfare; and
- (e) the Zimbabwe Republic Police; and
- (f) private voluntary organisations concerned with the welfare of victims of domestic violence, children's rights and women's rights; and
- (g) the Council of Chiefs referred to in section 37 of the Traditional Leaders Act [*Chapter 29:17*] (No. 25 of 1998) or any other law that may be substituted for it; and
- (h) the group representing all churches in Zimbabwe; and
- (i) any other body or organisation which the Minister considers should be represented on the Committee.

(2) The chairperson and the deputy chairperson of the Committee shall be persons qualified in the prescribed disciplines and shall be appointed by the Minister in consultation with the Minister responsible for social welfare.

(3) The Minister shall prescribe the terms and conditions of service of all members of the Committee.

(4) The Committee shall have the following functions-

- (a) to keep under constant review the problem of domestic violence in Zimbabwe;

- (b) to take all steps to disseminate information and increase the awareness of the public on issues of domestic violence;
- (c) to promote research into the problem of domestic violence;
- (d) to promote the provision of services necessary to deal with all aspects' of domestic violence and monitor their effectiveness;
- (e) to monitor the application and enforcement of this Act and any other law relevant to issues of domestic violence;
- (f) to promote the establishment of safe-houses for the purpose of sheltering the victims of domestic violence, including their children and dependants, pending the outcome of court proceedings under this Act;
- (g) to promote the provision of support services for complainants where the respondent who was the source of support for the complainant and her or his dependants has been imprisoned.

(5) The Committee shall submit annual reports to the Minister on issues related to domestic violence and may append to such reports such recommendations for legislative or other action as it deems fit.

(6) The Committee shall appoint one or more sub-committees on which it may confer such of the functions of the Committee as it thinks fit:

Provided that the vesting of any functions in a sub-committee in terms of this section shall not thereby divest the Committee of such functions, and the Committee may amend or rescind any decision of any sub-committee in the exercise of its functions.

PART V

GENERAL

16 Offences

(1) Any person who commits an act of domestic violence within the meaning of section 3 other than-

- (a) emotional, verbal and psychological abuse referred to and defined in section 3(1)(c) and (2)(c)(i), (ii), (iii) and (v); or

- (b) economic abuse referred to and defined in section 3(1)(d) and (2)(d);

shall be guilty of an offence and liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

(2) Any person who makes any false statement in any application or affidavit made in terms of this Act, knowing such statement to be false or not believing it to be true, shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

(3) Where any offence other than one referred to in this Act is committed by a respondent upon a complainant during or in furtherance of the commission any act of domestic violence, the court convicting the respondent therefor shall regard such circumstances as aggravating when assessing the sentence to be imposed.

(4) For the avoidance of doubt it is declared that the prosecution of a respondent under this Act or any other law shall not prevent the complainant from seeking protection and redress in terms of this Act.

17 Regulations

(1) The Minister may make regulations prescribing anything which under this Act needs to be prescribed or which in his or her opinion is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without derogating from the generality of subsection (1) regulations made under that provision may provide for-

- (a) the form of applications in terms of this Act;
- (b) the form of warrants and orders issued in terms of this Act;
- (c) the method of service of documents in terms of this Act;
- (d) the procedure of the Anti-Domestic Violence Committee;
- (e) the functions of clerks or registrars of court under this Act.