

LAW TO COMBAT DOMESTIC VIOLENCE
CHAPTER ONE
General provisions

Article 1. Purpose of the law

1.1. The purpose of the law is to regulate all matters pertaining to protection of victim's human rights violation, ensuring victim's safety, holding perpetrators accountable, and regulating relations concerning participation of government and non-government organizations, citizens, economic entities and authorities in combating and preventing domestic violence.

Article 2. Laws and legislations combat domestic violence

2.1. Laws and legislations combat domestic violence shall consist of the Constitution of Mongolia¹, Civil Law², Criminal Code³, Law on Family⁴, Law on Protection of Children's Rights⁵, this law and other legislative acts issued in conformity there with.

2.2. If an international treaty of Mongolia provides otherwise than in this law, the provision of the international treaty shall prevail.

Article 3. Scope of the Law

3.1. This Law shall apply to family members and relatives stated in the Law on Family.

3.2. This Law shall apply to persons who are presently residing together but not officially registered at authorized public organization, likewise to persons who are in custody or care of family in accordance with the Law on Family.

Article 4. Principles of activities combat domestic violence

4.1. Activities aimed at combating domestic violence shall be based on the principle of respect of human rights, and freedom, respect of laws, violence prevention, and immediate response to violence, ensuring victim's safety and influencing perpetrator's behavior.

Article 5. Definitions

5.1. The terms used in this law shall have the following meanings:

5.1.1. "Domestic violence" means any act or failure to act by a person stated in the provision 3 of this Law with respect to another person that infringes upon latter's human rights and freedom, or any act that causes or contains a threat to cause harm;

5.1.2. "Potential violence" means any circumstances likely to lead to domestic violence occurrence or re-occurrence;

5.1.3. "Shelter" means a place which provides a temporary housing and services to victims of domestic violence or victims vulnerable to domestic violence, and victims' minors.

5.1.4. "Mandatory training aimed at influencing perpetrator's behavior" means a training programme conducted through a special curriculum designed at forming behavior resolving family problems with no use of violence.

¹ Constitution of Mongolia, in State Information Bulletin, n.1, 1992

² Civil Law, in State Information Bulletin, n.7, 2000

³ Criminal Law in State Information Bulletin, n.8, 2002

⁴ Law on Family in State Information Bulletin, n.8, 1999

⁵ Law on Protection of Children's Rights in State Information Bulletin, n.8, 1996

5.1.5. “Services offered to victims” means rehabilitation and crisis intervention, provision of necessary information and legal and psychological counseling;

5.1.6. “Restraining order” means enforcement measures taken against perpetrator directed at protecting victim’s safety.

Article 6. Forms of domestic violence

6.1. Domestic violence stipulated in this law may have forms of physical, psychological, sexual and economic violence.

CHAPTER TWO

Rights and responsibilities of parties involved in activities for combating and preventing domestic violence

Article 7. Power of state authorities in combating and preventing domestic violence

7.1. the government shall exercise the power in combating and preventing domestic violence as follows:

7.1.1. to adopt and implement policy and programmes on combating and preventing domestic violence,

7.1.2. to allocate resources from the state budget to cover the expenses required for implementation of the programmes stated in provision 7.1.1. of this Law and introduce the budget proposal to the State Great Hural.

7.2. the state central authorities in charge of social welfare shall exercise the following power in combating and preventing domestic violence:

7.2.1. to implement state policy on combating and preventing domestic violence and organizing social services to victims,

7.2.2. to define the minimum requirements for a shelter.

7.3. the state central authorities in charge of justice and internal affairs shall exercise the following power in combating and preventing domestic violence:

7.3.1. to organize activities aimed at combating and preventing domestic violence as empowered in paragraph 3 of the article 7 of the “Law on Crime Prevention”;

7.3.2. To approve and enable the implementation of mandatory training programme aimed at influencing perpetrator’s behavior jointly with the state central authority in charge of social welfare;

Article 8. Power of local self-governing organizations and local authorities in combating and preventing domestic violence

8.1. Local self-governing organizations and local authorities of all levels shall exercise the following power:

8.8.1. to organize the policy implementation on combating and preventing domestic violence at local level;

- 8.1.2. to plan and allocate special funds based on data and surveys from the local budget for covering expenses related to combating and preventing domestic violence;
- 8.1.3. to collaborate with law enforcement organizations and support non government organizations combating and preventing domestic violence;
- 8.1.4. Other full power as stated in legislations.

Article 9. Responsibilities of police authorities in combating and preventing domestic violence

- 9.1. The police authority shall be responsible for preventing and combating domestic violence as follows:
 - 9.1.1. To receive and file the complaints concerning domestic violence, visit the site of violence, interview victim, alleged perpetrator and witness, take notes and take other measures required;
 - 9.1.2. to explain victims about their rights and procedures to file a petition requesting restraining order as stated in this Law;
 - 9.1.3. to explain the alleged perpetrator of the possibility of administrative and criminal penalties;
 - 9.1.4. to place victim in hospital or shelter, if possible, temporary kinship care if deemed necessary;
 - 9.1.5. to detain perpetrator according to administrative procedures stated in legislations if deemed necessary;
 - 9.1.6. to take the person under the influence of excessive use of alcohol to the sobering unit;
 - 9.1.7. to report social worker to provide services to victim as stated in provision 5.1.5. of the Law;
 - 9.1.8. to file a petition requesting restraining order to the relevant authorities and officials in charge;
 - 9.1.9. Other duties as stipulated in Legislations.

Article 10. Responsibilities of social worker for preventing and combating domestic violence

- 10.1. Social workers shall take the following responsibilities for preventing and combating domestic violence:
 - 10.1.1. conduct of family, environment and risk assessment in collaboration with police officer;
 - 10.1.2. conduct of mandatory training programmes aimed at influencing a perpetrator's behavior jointly with the police in accordance with the programme stated in provision 7.3.2 of this Law;
 - 10.1.3. to conduct training and awareness raising activities directed at domestic violence prevention, and provide services to victims in collaboration with nongovernment organizations against domestic violence;
 - 10.1.4. to write reports on services provided to victims and contribute to the development of a domestic violence information network.

CHAPTER THREE

Participation of nongovernment organizations in combating domestic violence

Article 11. Participation of nongovernment organizations in combating domestic Violence

11.1. Nongovernment organizations can be contracted to provide victims with shelter, conduct mandatory training influencing perpetrator's behavior, other activities combating and preventing domestic violence in accordance with procedures stated in legislations.

11.2. Nongovernment organizations can conduct activities stated in provision 11.1 of this Law in line with objectives of the nongovernment organization's rules.

Article 12. Authorized representative

12.1. Nongovernment organizations against domestic violence may take actions on protection of human rights and interests of victim through an authorized representative.

12.2. Authorized representative shall have the following rights:

12.2.1. to collaborate with government and non government organizations and other bodies in relation with protection of victim's rights and legal interests;

12.2.2. to obtain information and conduct survey on domestic violence;

12.2.3. to submit proposals on actions for combating domestic violence to relevant authorities.

CHAPTER FOUR

Reporting domestic violence and conducting measures aimed at stopping Violence

Article 13. Reporting domestic violence

13.1. While on duty, public school and kindergarten teachers and doctors shall be obliged to report domestic violence or potential violence to the police and local authorities.

13.2. Citizens, economic entities and organizations may report domestic violence or potential violence to the police and local authorities.

13.3. Bodies stated in provision 13.1 and 13.2 of this Law may report by means of telecommunication and post.

13.4. Information regarding domestic violence occurrence shall be received by local police authority of perpetrator's permanent or temporary residence and victim or of the place where domestic violence has taken place, or by police authority of respective territories if victim is placed at medical centre or shelter, if perpetrator is involved in mandatory training programme as stated in provision 5.1.4 of this Law. Measures as indicated in the Article 9 of this Law shall be taken by the police.

Article 14. Responsibilities of Soum or Bag governors for stopping domestic violence

14.1. The Soum or Bag governors shall take the following responsibilities to stop and prevent potential domestic violence:

14.1.1. to request perpetrator to appear at local authority office in order to secure victim's safety and warn perpetrator to stop violence;

14.1.2. If deemed necessary, to take measures to ensure safety of victim's residency or if possible place victims in temporary kinship care;

14.1.3. to interview victim, perpetrator and witness and keep records on domestic violence occurrence, and to take other measures if necessary.

Article 15. Ways of protecting victims, responsibilities of other bodies to ensure victim's confidentiality

- 15.1. The following ways can be utilized to protect victim:
- 15.1.1. to place victim in shelter;
 - 15.1.2. to place in temporary kinship care or group care;
 - 15.1.3. to transfer to child care facilities or social welfare organizations if necessary;
 - 15.1.4. to provide services as stated in provision 5.1.5. of this Law;
- 15.2. Victim is entitled to have legal assistance, file a claim for divorce, support, getting child alimony or compensation for material and non-material damages in accordance with laws and legislations.
- 15.3. Social worker and persons stated in article 12 of this Law shall not disclose victim's confidential information obtained during counseling.
- 15.4. Persons due to their official position having become aware of confidential information about shelter shall not disclose information about the shelter to others.

Article 16. Restraining order

- 16.1. The following measures may be taken to restrict perpetrator's rights:
- 16.1.1. to request perpetrator leave the household;
 - 16.1.2. to prohibit access to victim in shelter or another places stated in provision 15.1.3. of this Law;
 - 16.1.3. to prohibit possession, use and disposal of jointly owned properties;
 - 16.1.4. to prohibit temporarily contact with minor children in custody;
 - 16.1.5. to involve in mandatory training influencing perpetrator's behavior;
 - 16.1.6. to involve in mandatory alcohol/substance abuse treatment or work in accordance with administrative procedures stated in legislations if necessary;
- 16.2. A person pressed with charges stated in provision 16.1 of this law shall not be freed from responsibilities to take care and support victim.

Article 17. Court decision on restraining order

- 17.1. Court shall issue a decision on restraining order based on victim's complaint, request made by police officer, advocate or authorized representative and attached proof of evidence thereto in accordance with provision 82.1.8. of the "Law on Court Proceedings of Civil Cases"⁷.
- 17.2. Court shall issue a decision to take measures stated in provisions 16.1.1 - 16.1.5. of this Law within 24 hours upon victim's complaint on domestic violence in order to ensure victim's safety and health.
- 17.3. Restraining order stated in provision 17.6 of this Law can be issued up to one year depending on actual circumstances.
- 17.4. Parties have rights to appeal and file a complaint against the decision stated in provision 17.1. of this Law. This appeal shall not serve as justification for stopping actions taken for implementation of the decision thereto.
- 17.5. Court decision stated in provision 17.1 of this Law shall not interfere in conducting investigation on administrative offences concerning domestic violence occurrence or, initiating criminal case and instituting court proceedings of civil cases.
- 17.6. Court shall issue a decision stated in provision 17.1. of this Law taking into account the following circumstances:
- 17.6.1. repeated cruelty, threat or use of force toward victim;
 - 17.6.2. forced sexual relations or attempt of doing so;

⁷ Law on Court Proceedings of Civil Cases in State Information Bulletin, n.8, 2002

- 17.6.3. isolation of a victim from relatives or colleagues, causing psychological damage;
- 17.6.4. intentional evasion from responsibilities to take care of the family or previous cases of serious damage to child's upbringing;
- 17.6.5. excessive use of alcohol or drug on constant or repeated basis causing fear and threat to victim;
- 17.6.6. persons stated in Article 3 of this Law may have threats to life and health because of domestic violence

Article 18. Procedures on visitation

- 18.1. If measures stated in provisions 16.1.2 and 16.1.6. of this Law have not been indicated in court decision, visitation with perpetrator can be arranged following social worker's approval upon request from victim or care-givers and guardian for minors and incapable victims when the court decision is valid.
- 18.2. If measures stated in provisions 16.1.2 and 16.1.4 of this Law indicated in court decision, visitation to perpetrator can be arranged with minors in presence of the authorized representative following social worker's approval if necessary.
- 18.3. Authorized police officer can arrange visitation stated in provisions 18.1. and 18.2. of this Law.

CHAPTER FIVE Miscellaneous

Article 19. Liability for violation of the Law against domestic violence

- 19.1. Person violating the Law against domestic violence shall be subject to liability stipulated in legislation considering nature of social harm, action or inaction, state of offence and extent of damages.

Article 20. Entry into force

- 20.1. This Law shall enter into force from 1 January 2005.