Domestic Violence Victim Protection Act, BE 2550 (2007)

the Government of Thailand



2007

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DOMESTIC VIOLENCE VICTIM PROTECTION

ACT,

BE 2550 (2007)

BHUMIBOL ADULYADEJ, R.

GIVEN UNDER OUR HAND THIS 25TH DAY OF JULY, BE 2550 (2007);

BEING THE 62ND YEAR OF OUR REIGN.

Phra Bat Somdet Phra Paraminthra Maha Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is desirable to bring into existence a law on protection of domestic violence victims;

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the National Legislative Assembly, as follows:

§ 1

This Act shall be cited as the "Domestic Violence Victim Protection Act, BE 2550 (2007)".

§ 2

This Act shall come into force upon elapse of ninety days from the date of its publication in the Government Gazette.[1]

§ 3

In this Act:

"Domestic violence" means any act done with the intention to or in the manner likely to cause harm to the body, mind or health of a family member or to exert coercion or immoral influence over a family member in order to wrongfully cause him to do, not to do or yield to any act, but not including an act done negligently;

"Family member" means a spouse, a former spouse, a person cohabiting or having cohabited with another husband and wife without civil marriage, a child, an adopted child, a member of a household, as well as any person counting on and living in a family;

"Court" means a juvenile and family court under the law on establishment of juvenile and family courts and procedure thereof;

"Relief money" means preliminary compensation for the loss of any money or property incurred by a domestic violence victim in consequence of domestic violence, including the loss of earnings, medical expenses, expenses for new residence and other necessary expenses;

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

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

"Competent authority" means a person authorised by the Minister to execute this Act and includes an administrative or

police officer under the Code of Criminal Procedure;

"Inquirer" means a competent authority authorised as a judicial police officer under the Code of Criminal Procedure by the Minister; prescribed that in any locality for want of a competent officer authorised by the Minister, a judicial police officer under the Code of Criminal Procedure shall become an inquirer under this Act;

"Minister" means the Minister in charge of this Act.

§ 4

Any person who commits an act of domestic violence is said to commit an offence of domestic violence and shall thereby be liable to imprisonment for not more than six months, or a fine of not exceeding six thousand baht or both.

The offence under paragraph 1 shall be compoundable, without nullifying the offences under the Criminal Code or other laws. Should the act under paragraph 1 also constitute an offence of causing bodily harm pursuant to section 295 of the Criminal Code, this offence shall be compoundable.

§ 5

A domestic violence victim or a person finding out or aware of an act of domestic violence shall bear the duty to inform a competent authority who shall further take certain measures under this Act.

When the information under paragraph 1 is made in good faith, the informant shall be protected and shall incur no liability, whether civil, criminal and administrative.

§ 6

The information under paragraph 5 may be made orally, in writing, by telephone, by electronic means or by any other means.

When a competent authority becomes aware of an act of domestic violence or receives the information under paragraph 5, he shall be empowered to enter the relevant residences or scenes of action and inquire the person committing the act of domestic violence, the domestic violence victim or other persons present thereat as to the facts concerned. The competent authority shall also have the power to arrange medical examinations and treatments for the victim and direct the victim to take counsel with a psychiatrist,

psychologist or social worker. If the victim wishes for a prosecution, the competent authority shall extract his complaint in pursuance of the Code of Criminal Procedure. If the victim is unable or had no opportunity to complain in person, the competent authority shall enter a complaint on his behalf.

The criteria and procedure for the execution of paragraph 2 shall be set forth in the rules of the Minister.

§ 7

If no information under section 5 or complaint under section 5 is made within three months from the time the domestic violence victim is able or has the opportunity to inform or complain in person, prescription shall take effect. This shall, however, not debar the victim or any interested person from seeking welfare protection in accordance with the law on establishment of juvenile and family courts and procedure thereof.

§ 8

Where a complaint is entered before the expiry of the prescription period under section 7, the inquirer shall hold an inquiry without delay and shall send the domestic violence victim, inquiry files and his opinion to a public prosecutor who must then file a charge with the court within forty eight hours from the time the person committing the act of domestic violence is seized. If the charge cannot be filed within such period of time owing to whatever necessity, the public prosecutor may apply to the court for several extensions not exceeding six days each; prescribed that the court may not grant more than three successive extensions. The law on establishment of municipal courts and criminal procedure thereof shall also apply mutatis mutandis.

Should the act constituting the offence under section 4, paragraph 1, also lead to an offence under other law, the former and latter offences shall jointly be brought to the court. But if the offence under other law is subject to a higher rate of penalty, these offences shall be brought to the court competent under such other law and all provisions of this Act shall also apply mutatis mutandis.

In interrogating a domestic violence victim, the inquirer must permit the presence of a psychiatrist, psychology, social worker or person sought by the victim, who shall be entitled to provide advice to the victim.

In case of an urgent need by which the participation of the psychiatrist, psychology, social worker or person sought by the victim cannot be expected, the inquirer shall conduct the

interrogation in his absence, but the inquirer must record the grounds therefor in the inquiry files.

The criteria and procedure for the activities of the inquirers shall be set forth in the rules of the Minister.

§ 9

Upon information under section 5 or complaint under section 6, no person may print, publish or distribute to the public by whatever means any picture, account or information likely to negatively affect the person committing the act of domestic violence or the domestic violence victim who is party to a case under this Act.

Any person who contravenes the provision of paragraph 1 shall be liable to imprisonment for not more than six months, or a fine of not exceeding sixty thousand baht or both.

§ 10

In executing section 8, a competent authority who ranks not lower than a senior administrative or police officer under the Code of Criminal Procedure and who is authorised by the

Minister shall be invested with the power to, by order, indicate certain provisional measures or reliefs in favour of the domestic violence victim, whether or not the victim requests therefor. The provisional measures or reliefs shall only be indicated to the extent necessary and appropriate. They shall include the requirement that the victim be medically examined, the person committing the act of domestic violence provide relief money in agreement with his living condition, or the person committing domestic violence be prohibited from entering the residence of the family in question or from being near any of its members, and shall include the methods of child custody.

When a competent authority indicates one or several provisional measures or reliefs in keeping with paragraph 1, he shall refer those provisional measures or reliefs to the court within forty eight hours from the issuance of the order thereof. If the order is approved by the court, it shall continue to be in force.

In cases the court does not concur on the whole or part of the order indicating provisional measures or reliefs or if certain facts or circumstances have changed, the court shall forthwith hold an examination and issue any order. When the facts or circumstances ascertained do suffice to adopt any order, the court may amend, change or cancel the order indicating provisional measures or reliefs, render a different order, or stipulate additional conditions.

A person interested by an order of a competent authority or court under this section may, by written appeal, request the court to review the order; prescribed that the appeal must be entered within thirty days from the appellant's awareness of the order. Any judgment or order adopted by the court shall be final.

Any person who contravenes or fails to abide by an order given by a competent authority or court shall be liable to imprisonment for not more than three months, or a fine of not exceeding three thousand baht or both.

§ 11

In the course of an inquiry or trial, a court may issue an injunction indicating certain provisional measures or reliefs under section 10 or may issue any different injunction as it deems expedient.

In cases the situation or circumstances concerning the person committing the act of domestic violence or the domestic violence victim have changed, the court may amend, change or cancel the injunction indicating provisional measures or reliefs or the different injunction, or may stipulate additional conditions.

Any person who contravenes or fails to comply with a judicial injunction shall be liable to imprisonment for not more than six months, or a fine of not exceeding six thousand baht or both.

§ 12

In the event that the court holds a person committing an act of domestic violence guilty of the offence under section 4, the court may, instead of sentencing him to any penalty, apply certain measures of reformation, treatment or correction to him, may direct him to pay an amount of relief money, carry out community service or refrain from the acts giving rise to domestic violence, or may place him under a peace bond, subject to the procedure and period of time determined by the court.

In the event that the offence under section 4 is to be compounded or the complaint or charge is to be withdrawn, the inquirer or court, whichever applies, shall record the preliminary agreement prior to endorsing the said compound or withdrawal, whilst the measures under paragraph 1 shall mutatis mutandis become the conditions governing the execution of such agreement. In this respect, the inquirer or court may take into account the opinions of the victim or family members concerned. When the agreement and conditions are fulfilled, the compound or withdrawal may

then be endorsed. Should the accused or defendant contravene or fail to observe the mentioned conditions, the inquirer or court may resume the prosecution.

The criteria and procedure for the execution of paragraphs 1 and 2 shall be set forth in the rules laid down and published in the Government Gazette by the President of the Central Juvenile and Family Court or the Minister, as the case may be.

§ 13

The Ministry of Social Development and Human Security shall, by ministerial regulation, set up a working system in support of the activities under and the execution of sections 10, 11 and 12.

§ 14

With respect to the procedure, entry of documents and taking of evidence, where no provision of this Act is specifically applicable, the law on establishment of juvenile and family courts and procedure thereof shall apply mutatis mutandis.

§ 15

Irrespective of to whatever extent the trial of a domestic violence case has progressed, the court shall attempt to arrange an agreement or settlement on the matters in issue between the parties, for the sake of the peaceful coexistence of the family members. For this purpose, the court shall also adhere to the following principles:

(1) The rights of the domestic violence victims need to be protected;

(2) The marital status, as the source of a male and a female who willingly live together as husband and wife, needs to be conserved and protected; prescribed that in case of impossibility, the divorce ought to be fair and should result in the most lenient injury, having due regard to the welfare and future of their children;

(3) The family needs to be protected and supported, especially when it is bound to provide maintenance and education to its members who are still minor;

(4) Certain measures need to be taken for the purpose of enabling the husband and wife to be reconciled and to reform the relationships between themselves and between them and their children.

§ 16

For the purpose of compounding an offence of domestic violence, a competent authority or court, whichever applies, may appoint a mediator or panel of mediators, consisting of the fathers, mothers, guardians or relatives of the parties or other persons found appropriate by the competent authority or court; prescribed that these mediators shall provide advice or assistance in adopting a compromise between the parties. Otherwise, the competent authority or court may direct any social worker, social work agency or person to assist in adopting a compromise between the parties.

Upon having fulfilled the order of the competent authority or court, the mediators under paragraph 1 shall report the mediation outcome to the competent authority or court, as the case may be. If the mediation is successful, the mediators shall draw up a compromise or may request the competent authority or court to direct the parties to conclude a compromise in the presence of the competent authority or court.

Should the competent authority or court find that the compromise is lawful and not contrary to public order or good morals, the competent authority or court shall set the compromise in operation.

§ 17

The Ministry of Social Development and Human Security shall draw up an annual report stating the amount of domestic violence cases, the amount of the orders indicating provisional measures or reliefs, the amount of the violations of the orders indicating provisional measures or reliefs rendered by the competent authorities and courts, as well as the amount of the compromises adopted. The Ministry shall also once a year submit the report to the Council of Ministers and the National Assembly for their acknowledgement.

§ 18

The Minister of Social Development and Human Security shall be in charge of this Act and be empowered to appoint the competent authorities as well as issue the ministerial regulations and rules for the execution of this Act.

Those ministerial regulations and rules shall take effect upon their publication in the Government Gazette.

COUNTERSIGNED BY:

General Surayud CHULANONT,
Prime Minister.

Statement of Grounds

The grounds for promulgation of this Act are as follows: The domestic violence problems are of delicate and complicated nature, involve many intimate persons, and have special characteristics which distinguish them from the cases of causing bodily harm in general. These problems cannot be dealt with perfectly by the criminal measures under the Criminal Code which are intended to penalise the offenders, rather than to reform them or protect the domestic violence victims. For these reasons, the establishment of a law on protection of domestic violence victims would be more appropriate than the enforcement of the criminal measures. Under such law, the exceptional forms, methods and processes of criminal prosecution could also be adopted, with a view to enabling the offenders to reform themselves, preventing them from relapsing into offences, maintaining good relations amongst families, and entitling the children, juveniles and family members to the State-provided

protection from the acts of violence and unfair treatments. It is therefore necessary to enact this Act.

Footnotes

1. ↑ Published in the Government Gazette: volume 124/part 41 A/page 1/14 August 2007.

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