

LAW OF MONGOLIA AGAINST DOMESTIC AND HOUSEHOLD VIOLENCE

Chapter one

GENERAL PROVISIONS

Article 1. Purpose of the Law

- 1.1. Purpose of this law is to regulate relations arising in connection with the ensuring the gender equality in family and household relations, the prevention of domestic violence, its revealing and bringing to end, protection of victims` rights and imposition of liability on offenders.

Article 2. Legislation on combat domestic and household violence

- 2.1. The legislation on combat domestic violence shall consist of the Constitution, Criminal Law, Law on Administrative Liability, Law on Crime Prevention, Family Code, the present Law and other legislative acts adopted or enacted in conformity with thereof.
- 2.2. If an International Treaty of Mongolia provides otherwise, the provisions of the Treaty shall prevail.

Article 3. Persons falling under the scope of the law

- 3.1. The following persons shall fall under the scope of the present law:
 - 3.1.1. a member of a family;
 - 3.1.2. a relative;
 - 3.1.3. partners living together.

Article 4. Principle of activity of combat domestic and household violence

- 4.1. Activity of combat domestic and household violence will be based on the following principles:
 - rules of laws;
 - respect human rights and freedom;
 - support sustainable family and household relations;
 - prevention to be become a victim of domestic violence by one of family members, relatives and partners living together;

- a victim can appeal to an governmental and non-governmental organization for protection his or her rights;
- by all means ensure the legal responsibility for whom committed act of violence.

Article 5. Legal terms

5.1. The terms found in the present Law shall bear the following meaning:

- 5.1.1. “domestic and household violence” shall mean any act or inaction committed intentionally, to inflict physical, psychological, sexual, or material harm breaching rights and freedom ensured by the Constitution by persons specified in Article No.3 of the present Law against each other;
- 5.1.2. “a member of a family; a relative” shall be understood as persons specified in Clause No.3.1.4, 3.1.5. and 3.1.6 of the Family Code;
- 5.1.3. “partners living together” shall mean unmarried persons who live or lived together and who have connection of family status, labour and property, divorced couples, house-helper, lodger, their born, adopted and stepchildren and relatives;
- 5.1.4. “physical abuse” shall mean an act of assault or battery causing any harm to one’s health or death by persons specified in Article No.3 of the present Law for each other;
- 5.1.5. “psychological abuse” shall be understood as an act of putting a person in a state of repeated alert by means of threats, intimidation, coercion, stalking, humiliation, impairment of personal reputation, isolation from relatives and collective and other means by persons specified in Article No.3 of the present Law;
- 5.1.6. “sexual abuse” shall mean an act of entering into involuntary sexual intercourse by persons specified in Article No.3 of the present Law;
- 5.1.7. “possessive (economic) abuse” shall mean an act of putting pressure, limiting, interdicting and depriving the use of property on the occasion of possessive and financial advantage;
- 5.1.8. “crime of domestic and household violence” shall mean an act or inaction committed in the domestic and household range and stipulated in paragraph 5.1.1. above which is criminalized by the Criminal Code;
- 5.1.9. “social worker” shall be understood personnel of public service who has rights and duty to inform any governmental and non-governmental authorities on the purpose of investigate arising of threat of domestic and household violence or committed violence act and prevention real threat; and take measure allowed by the present Law;

Chapter two

PUBLIC SERVICE, ITS STRUCTURE, ORGANIZATION AND MAIN FUNCTIONS

Article 6. Establish Public Service

- 6.1. Public service shall be established on the purpose of providing legal defense and assistance for victims who suffered and may have been suffered from domestic and household violence and its structure and number of staff will be ratified by Government.

Article 7. Main Functions of activity by Public Service

- 7.1. Public Service will organize and fulfill its activity with below-mentioned functions:
 - 7.1.1. Provide with social service for victims of domestic and household violence, have ex parte restraining order by court jointly Police Department;
 - 7.1.2. Interrupt domestic and household violence on the basis of Court decision;
 - 7.1.3. Organize works for prevention from domestic and household violence, cause participating by citizens and non-governmental organizations and cooperate with Police Department;
 - 7.1.4. Determine reason and condition of domestic and household violence, collecting, researching and analyzing information on committing of domestic and household violence.

Chapter three

Participation by Governmental and Non-governmental organizations and citizens for Combat domestic and household violence, their rights and duties

Article 8. Rights and Duties of the Police

- 8.1. Except fulfill rights and duties specified in the Law, the following duties must be performed by the Police for preventing and interrupting domestic violence.
 - 8.1.1. Communication about an act of domestic and household violence has occurred, must be considered as exceptional by the police and the police shall be obliged to undertake promptly actions.
 - 8.1.2. All measures for defending evidence must be taken promptly, evidence must be collected according to the Rule specified in the Law and by all means documented by the police.
 - 8.1.3. Information source must be kept as a secret.
 - 8.1.4. Measures specified in the Law must be taken for isolating offender from victim and ex-parte restraining order must be provided himself of jointly Public service officer.
 - 8.1.5. The police shall provide the victim with legal advice on domestic and household violence and explain his/er rights.
 - 8.1.6. The police shall give consultation aimed at influencing the personality of an offender.
 - 8.1.7. The police must monitor fulfillment of the victim protection order, in case of infringing the protection order the police shall arrange arrest according to the administrative measure by Court.

- 8.1.8. The police shall research domestic and household violence occurred and their reasons and prepare annual report of statistics of the delinquencies and crimes.
- 8.1.9. The police shall organize training aimed at influencing the personality of offenders and involve non-governmental organizations into the kind of activity.

Article 9. Rights and Duties of the Prosecutor's Office

- 9.1. Except fulfill rights and duties specified in the Law, the following duties must be performed by the Prosecutor's Office for preventing and interrupting domestic violence.
 - 9.1.1. to monitor for victim protection order is issued or not;
 - 9.1.2. to pay his/er attention for not betraying personal secret about act of domestic and household violence is occurred and to not give permission to publish about the case.
- 9.2. The Prosecutor has the below-mentioned right.
 - 9.2.1. If the Prosecutor considers that the Police officer hasn't performed his duty specified in the present Law s/he shall order the responsibility specified in the present Law providing Prosecutor's requirement.

Article 10. Rights and Duties of the Court

- 10.1. Except fulfill rights and duties specified in the Law, the following duties must be performed by the Court Prosecutor's Office for preventing and interrupting domestic violence.
 - 10.1.1. to make decision on ex parte restraining order on the basis of documents about domestic and household violence occurred and there is real danger that domestic and household danger might be occurred, collected by the Police;
 - 10.1.2. In case of infringing the ex parte restraining order, other coercive measures specified in the Administrative Law, under request by Police;
 - 10.1.3. Prosecutor has the right to cancel ex parte restraining order in the following cases:
 - the offender showed that s/he is corrected
 - under request by victim, his/er Legal Representative, Conservator, Guardian, Advocate and Public Service Officer.

Article 11. Rights and Duties of Non-governmental organization

- 11.1. Staff of the organization shall provide victim of domestic and household violence with psychological and first medical aid;
- 11.2. to provide victim of domestic and household violence with protection shelter;
- 11.3. to objectively research reason and outcome of domestic and household violence, make conclusion and cooperate with Public Service Officers and Polices;

- 11.4. to organize training for public on prevention from domestic and household violence and protection of victims;
- 11.5. to provide information on registration of victims who are served by the Organization and Protection shelters and other related documents, under request by Qualified Authorities;
- 11.6. to give professional assistance to the Court, Prosecutor's Office and Police Department, to give consultation to the above-mentioned authorities and offenders and train and qualify Public Service officers.

Article 12. Common rights and Duties of citizens, Enterprises and Organizations

Citizens, enterprises and organizations have the rights and duties specified in the Paragraphs No.9 and 10 of the Law on Crime Prevention in case act of domestic and household violence occurred.

Article 13. Submission of a communication on domestic violence

- 13.1. Victims of domestic violence, members of their family, public service officers, citizens shall have the right to report about domestic violence.
- 13.2. Doctors and workers of medical institutions who have provided a medical treatment to a victim of domestic violence shall have a duty to so report to the police, within 24 hours, provided the victim has given a consent.
- 13.3. Organizations for children shall inform a Secretariat of the pertinent soum and district Governor, the police and childcare organizations about the instances indicating about a child being subjected to domestic violence.
- 13.4. A communication about domestic violence may be submitted to the police of an area where an offender or victim resides permanently or temporarily, or where the violence took place, or where an organization which provides medical or other assistance is located, if a victim is sheltered there.
- 13.5. Communication may be submitted in various forms, including orally, in writing, and by telephone.

Chapter four

The rights of Victim of domestic and household violence, types of legal protection

Article 14. Victim's right

- 14.1. Victim of domestic and household violence has the rights to request to carry out the following activities:
 - 14.1.1. to undertake all measures to interrupt violence and protect from causing further violence;

- 14.1.2. to be taken to a medical institution for medical treatment;
- 14.1.3. to be transferred to a safe place or organization providing assistance to the victims of domestic violence;
- 14.1.4. to get psychological assistance;
- 14.1.5. to have the offender arrested, to have an ex parte restraining or protection order issued;
- 14.1.6. to have a lawsuit initiated against the offender;
- 14.1.7. to get a divorce or live separately;
- 14.1.8. to file a claim with a court for the compensation of material and psychological damages;
- 14.1.9. to file a claim with a court for the deprivation or restriction of parental rights and exaction of allowances and other expenses in accordance with the Family Code.

Article 5. Allowance of sanctuary

- 15.1. In case because of domestic and household violence somebody's life and health could have been damaged, sanctuary shall be allowed by Public service officer for days requested by the applicant, by non-governmental organization who has the rights to carry out social service for 10 days.
- 15.2. Sanctuary shall be allowed to non-ages without considering his/er motion according to the permission by his/er conservator and guardian.
- 15.3. At the term of sanctuary, the Public service officer shall take measures on eradicating danger situation for life and health of victim of domestic and household violence, jointly with Police Department in the current area.
- 15.4. Term of sanctuary can be extended by as well as term once or more than under request by victim.

Article 16. Ground for issuing of ex parte restraining order

- 16.1. If offender every time has inhuman treatment and threaten for his/er family members, relatives and partners living together.
- 16.2. Attempted compulsion or compulsion into sexual intercourse unwanted by victim;
- 16.3. Isolated from society and collective, held under heavy psychological pressure;
- 16.4. Prejudiced intentionally evading from duty on aliment and damaged seriously for children's education;
- 16.5. Held victim in danger situation often or every time using alcoholic drinks and narcotic drugs;
- 16.6. Life and health of anyone of family members, relatives and partners living together might have been seriously damaged due to regular violence and pressure by violator.

Article 17. Persons who have the rights to complain for having ex parte restraining order:

- Victim;
- Legal representative, conservator and guardian of victim;
- Advocate of victim;
- Public service officer;
- Others

Article 18. Procedure of issuance ex parte restraining order

- 18.1. Provided the victim has filed a complaint requesting the issuance of an ex-parte restraining order, such a complaint shall be examined by the Police and transferred with the concerned evidences to a court in area where victim resides.
- 18.2. A court shall issue an ex parte restraining order against on offender after examination of complaint and the concerned evidence.
- 18.3. If suits for getting divorced, getting excepted from family member are not commenced by a victim and causes specified in the Article No.... of the present Law are showed and a qualified body files a complaint ex patre restraining order must be promptly issued for violator.
- 18.4. If suits for getting divorced, getting excepted from family member and restriction of parental rights are commenced by a victim, the court shall decide the special complain by order in the process of forum. In case the difference is being decided finally, the court shall specify type, term and procedure of ex parte restraining in the order.
- 18.5. Ex parte restraining order shall be issued for up to one month, ex parte restraining direction shall be issued within term of adjudicating or for up to two months and ex parte restraining act shall be issued for from 6 months up to 2 years.

Article 19. Type of measure of ex parte restraining

- 19.1. The court shall issue ex parte restraining order by the following type:
 - 19.1.1. to oblige the offender to leave home, live separately and live in a place other than the home and work;
 - 19.1.2. to fix procedure for access to his/er children or persons who have the rights to have tutor and to order aliment;
 - 19.1.3. to prohibit the offender from contacting the victim;
 - 19.1.4. to exact from the offender expenses pertaining to the victim's medical treatment;
 - 19.1.5. to limit the possibility to dispose of common property;
 - 19.1.6. to prohibit to continue and repeat causing any further acts of domestic and household violence;
 - 19.1.7. to require the offender to attend compulsory training;
- 19.2. The court can administer several arrangements or measures specified in the present article at the same time.

Article 20. Liability to be imposed on law offenders

- 20.1. If officers specified in the Articles No.8, 9 and 10, who failed to fulfill their duties, they shall be held disciplinary sanction by the qualified functionary of the higher instance authority.
- 20.2. If doctors and officers of medical institutions failed to fulfill their duties specified in the present Law, the court shall fine them by 50000-150000¥.
- 20.3. If citizens failed to fulfill their duties specified in the present Law, the qualified police officer shall fine them by 5000-10000¥ and the court shall fine them by 20000-100000¥.
- 20.4. If organizations and legal units failed to fulfill their duties specified in the present Law, the court shall fine them by 150000-300000¥.
- 20.5. If violator breaches of an ex parte restraining order, s/he shall be arrested according to the Law on Administrative Liability under request by Public service officer, Police officer and victim.
- 20.6. Regardless of the ex parte restraining, in case of s/he is guilty, liability shall be imposed on the offender according the Criminal Code, Administrative Law and Civil Code.

Chapter five

OTHERS

Article 21. Entrance of the present Law into Force

This law shall become effective on / from

SIGNATURE