

**CONFIDENTIAL DOCUMENT -- NOT FOR DISTRIBUTION  
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**KINGDOM OF CAMBODIA**

**NATION - RELIGION - KING**

**"DRAFT LAW ON PREVENTION OF DOMESTIC VIOLENCE AGAINST WOMEN"**

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**CHAPTER I: GENERAL PROVISIONS**

**Article 1**

The purpose of this law is to establish legal mechanisms to respond to the problem of domestic violence. This law shall be implemented for the protection and safety of female victims of domestic violence and to prevent future cases of domestic violence.

**Article 2**

The following acts of violence against women in relationships specified in article 3 shall be considered to be the crime of domestic violence:

- battery, which shall be punished by a prison term of one month to six months and/or a fine of 100,000 to 250,000 riel;
- forcible or unlawful entry into the dwelling of another or remaining on the property of another after being asked to leave, which shall be punished by a prison term of three months to three years and a fine of 50,000 to 500,000 riel;
- stalking or following a woman for the purpose of threatening, coercing or intimidating a woman, which shall be punished by a prison term of three months to three years and a fine of 100,000 to 1,000,000 riel;
- battery with injury, which shall be punished by a prison term of three months to five years and a fine of 100,000 to 1,000,000 riel;
- kidnapping, abducting, confining or detaining a woman against her will, which shall be punished by a prison term of one year to five years and a fine of 500,000 to 5,000,000 riel;
- involuntary sexual acts against a woman carried out through force, threat or duress, which shall be punished by a prison term of two years to ten years and a fine of 1,000,000 to 10,000,000 riel.

Any attempt or threat of the above acts shall also be punishable as specified above.

**Article 3**

Relationships covered by article 2 include spouses, former spouses, live-in partners, former live-in partners, persons who have a child in common, lovers, former lovers, girlfriends or former girlfriends. Marriage shall not be a defense to any of the acts prohibited by this law. This law shall apply whether or not the perpetrator and the victim are living together.

**Article 4**

In cases of battery the prosecutor shall send the accused to the court for direct trial with full respect for the right of counsel.

**Article 5**

The court shall sentence any person convicted of a second violation of this law to a term of imprisonment consistent with the provisions of article 2 of this law.

**Article 6**

Victims of domestic violence shall have the right to legal counsel or representation by/family or friends in all legal proceedings.

**CHAPTER II: PROTECTION ORDERS**

**Article 7**

In addition to any relevant provisions of the Law on Marriage and the Family, the court may issue a protection order on the application of a victim of domestic violence. Such an order may be granted as part of a divorce proceeding or separately. Such an order may be granted on a temporary or permanent basis. Such an order shall be enforced without exception by the police.

**Article 8**

A protection order may be issued in cases in which a credible claim of a violation of article 2 of this law is made by a victim of domestic violence or her representative. Hearings shall be held in the presence of the alleged offender except in cases where he chooses not to appear in court, he cannot be found, or it is too dangerous for the victim for the court to take the time to notify him.

In cases in which the life, health or well-being of the victim or others may be in jeopardy, the court shall issue a protection order immediately upon receipt of a request. All other cases shall be considered within 24 hours of receipt.

An initial protection order may be issued for a period of 10-30 days. Subsequent protection orders may be issued for any period of time, but not less than 30 days, upon a showing of continued risk of domestic violence. The length of a protection order shall take into account any other pending criminal or civil action involving the parties.

In the interests of health and safety, any cases of doubt with respect to protection orders shall be

resolved in favor of the alleged victim.

**Article 9**

Upon the issuance of a protection order, the court shall immediately notify the police, who shall escort the victim back to her house or other place as designated by the victim.

**Article 10**

At any time during the effect of a protection order which was issued without the presence or representation of the alleged offender, the alleged offender may request a hearing at the court to dissolve the order. Such a hearing shall only take place in the presence of the victim or her representative or in her absence if she has received at least 72 hours notice. During such a hearing all terms of the protection order, except for any limitations on the distance between the victim and offender, shall remain in effect until the court has made a final decision.

**Article 11**

A protection order shall:

- temporarily compel the offender to vacate the family residence or other residence or order the offender to pay the victim's rent at a residence other than the one previously shared by the parties;
- prohibit the offender from coming within a specified distance of the victims' home, place of work, school or any other place that is frequented regularly by the victim or other family, household or other specified persons. Such distance shall ordinarily be 100 meters and in any case shall be sufficient to ensure the safety of the victim;
- prohibit or limit the offender from contacting the victim or other relevant persons with whom communication would create a danger that acts of domestic violence would be committed;
- recommend to the victim or other household members that they do not invite the offender to the residence and that they decline any request or demand to admit the offender while an order requiring the offender to stay away from the residence of the victim is in effect;
- prohibit the offender from possessing all or specific weapons;
- grant temporary custody of children to the victim if requested by the victim. The court may specify arrangements for visitation by the offender by requiring third party supervision of visitation to protect the victim or the children;
- temporarily require the offender to provide reasonable financial or other support to the victim and children, taking into account the means of the offender;
- require the offender to provide compensation for the victim's medical bills, loss of earnings, cost of repair or replacement of real or personal property damaged or taken, or moving or other travel expenses;

- temporarily prohibit the victim and offender from selling or otherwise disposing of joint assets without the approval of both parties and the court;
- grant any other requested relief necessary or appropriate to prevent or reduce the likelihood of subsequent domestic violence.

No order under this article shall in any manner affect title to any real property.

#### **Article 12**

A protection order shall inform the victim and offender that:

- if the offender violates the order he may be arrested and criminal charges brought against him;
- the victim may initiate a civil proceeding for divorce, separation, damages, or compensation, including custody of children and spousal and child support;
- the victim may request the prosecutor to file criminal charges against the offender for his acts of domestic violence;
- the victim may, if the circumstances require, request the court to issue a permanent protection order.

#### **Article 13**

Violation of the terms of a protection order by an offender shall be punished by a prison term of seven days to one year and/or full restitution, except that no prison term shall be imposed upon an indigent person who is unable to meet the terms of an order related to finances.

### **CHAPTER III: DIVORCE**

#### **Article 14**

Any act of domestic violence as specified in this law shall constitute a ground for divorce.

#### **Article 15**

In divorce cases in which a woman alleges that she is a victim of domestic violence within the marriage the court shall make a final determination of all matters within 90 days.

#### **Article 16**

In divorce cases in which a woman alleges she is a victim of domestic violence the spouses shall not be required to attend any reconciliation meetings, either at the court or other governmental offices.

#### **Article 17**

In divorce cases in which the court determines that a woman is a victim of domestic violence, the court shall ordinarily grant custody of the children, if any, to the victim and order appropriate family support if the woman requests custody. The court shall also issue an appropriate protection order.

## CHAPTER IV: DUTIES OF AUTHORITIES

### Article 18

Any person may make a report of domestic violence to the police, prosecutor, commune chief, village chief or other authorities. Such authorities shall respond to every request for assistance and protection in cases of alleged domestic violence within 24 hours. Police shall immediately go to the scene of the alleged domestic violence when it is reported that domestic violence is imminent or in progress, when a court order related to domestic violence is in effect and likely to be violated, or when domestic violence has occurred previously.

### Article 19

Police shall not treat cases of violence within the family any differently than cases of violence between strangers or others. Police shall provide protection to a victim of domestic violence, including transportation to the nearest medical facility or safe place, and arrange for the removal of the alleged offender from the home.

### Article 20

A police officer shall arrest a suspected offender without a warrant when he has reasonable grounds to believe that any of the acts of domestic violence as provided in this law is occurring or has occurred and the officer has reasonable grounds to believe that there is a possibility of further violence.

### Article 21

In any case of domestic violence, the police shall seize any weapons used, alleged to have been used or threatened to have been used by the offender.

### Article 22

The police, prosecutor or other authorities shall inform every victim of her rights under the law, including the right to have the perpetrator arrested, the right to prosecute the perpetrator under this law, the right to a protection order and the right to be transported by the police to the nearest medical facility or safe place.

Police officers, court personnel and other governmental officials shall ensure that victims or witnesses shall not be subjected to harassment or persecution in the course of investigation.

### Article 23

In every reported case of domestic violence, the police officer involved shall file a domestic violence report containing the relationship of the parties, the time and date the complaint was received, the time and date the officer began to investigate, whether children are involved or present at the time of the domestic violence, the type and extent of abuse, the type of weapons used, if any, the amount of time spent on the case by the officer, the action taken by the officer, and any other relevant information.

At the end of each year, the provincial police chief shall collect the above information and file a report to the Ministry of Interior with a copy to Ministry of Women's Affairs. Each Ministry shall report

annually to the National Assembly about the state of the problem and the proposed measures each will take to address the problem more effectively.

**Article 24**

Failure to perform any of the above duties shall be a ground for disciplinary proceedings against the concerned police officer or civil servant.

**Article 25**

A Task Force shall be convened by the Ministry of Women's Affairs with the membership of the Ministry of Interior, Ministry of Justice, Ministry of Social Affairs and relevant NGOs and international organizations to develop and implement:

- training programs to assist police, prosecutors, judges, court clerks, lawyers, health workers, local officials and others in developing the necessary skills and attitudes in dealing with domestic violence cases. Each police officer, prosecutor, judge and court clerk shall receive training on this subject within two years of the passage of this law;
- information, education and media campaigns aimed at increasing public awareness about and solutions to the problem of domestic violence;
- services and assistance for victims.

The Task Force shall submit an annual report to the National Assembly regarding the performance of its assigned tasks. The National Assembly shall allocate the necessary funds for the Task Force to promptly and efficiently perform its functions.

## **CHAPTER V: OTHER PROVISIONS**

**Article 26**

A protection order shall not be used as evidence to prove the commission of any crime specified in this law.

**Article 27**

The remedies and procedures provided in this law are in addition to and not in lieu of any other available civil or criminal remedies.

**Article 28**

No fees shall be charged for filing of petitions, service of petitions or orders, copies of orders, or other services provided by this law.

**Article 29**

Any other legal provisions which are inconsistent with the provisions of this law are null and void.

