

LAW OF THE REPUBLIC OF KAZAKHSTAN 'On Prevention of Domestic Violence'

This Law establishes legal, economic, social and organizational grounds for state bodies, bodies of local self-government, organizations, and citizens of the Republic of Kazakhstan to conduct activities for the prevention of domestic violence.

Chapter 1. General Provisions

Article 1. Main concepts used in this Law

The following main concepts have been used in this Law:

- 1) Victim is a physical person who may be suggested of having immediately suffered from moral, physical, and/or property damage inflicted by domestic violence;
- 2) Family and domestic relations means a scope of relationship between persons related by marriage; persons cohabiting in an individual residential house, apartment or other residential facility, also ex-spouses;
- 3) Domestic violence is a deliberate unlawful action or inaction of a person against other(s) in the field of family and domestic relations, causing or containing a threat of causing physical and/or mental suffering;
- 4) Prevention of domestic violence means a set of legal, economic, social and organizational activities of domestic violence prevention entities directed at the protection of constitutional rights, freedoms, and legal interests of a person and a citizen in the field of family and domestic relations, at the prevention and suppression of domestic violence, also at the detection and elimination of causes and conditions that trigger demonstration of domestic violence;
- 5) Domestic violence prevention entities shall be state agencies, bodies of local self-government, organizations and physical persons carrying out domestic violence prevention.

Article 2. Legislation of the Republic of Kazakhstan On Prevention of Domestic Violence

1. The Legislation of the Republic of Kazakhstan On Prevention of Domestic Violence is based on the Constitution of the Republic of Kazakhstan, and consists of this Law and other statutory acts of the Republic of Kazakhstan.
2. In the event an international treaty ratified by the Republic of Kazakhstan establishes rules other than those contained in this Law, rules of the international treaty shall apply.

Article 3. Principles of Domestic Violence Prevention

Prevention of domestic violence is based on the principles of:

- 1) legality;
- 2) guarantees of observing rights, freedoms and lawful interests of a person and a citizen;
- 3) inadmissibility of causing physical and/or mental suffering to a person and a citizen;
- 4) support and maintenance of the family;
- 5) confidentiality ;
- 6) individual approach to every person and citizen who is in a difficult life situation;
- 7) priority of preventive measures against domestic violence over repressive ones;
- 8) comprehensiveness and systemic approach.

Article 4. Types of Domestic Violence

1. Domestic abuse may express itself in the form of physical, psychological, sexual and/or economic violence:
2. Physical abuse shall be intentional infliction of harm to health by physical force or infliction of physical pain.
3. Psychological abuse shall be intentional mental effect on a person, humiliation of honor and dignity by threat, insult, blackmail or coercion (duress) to misdemeanors or to acts that pose danger to life or health, as well as by way of causing mental, physical or personal developmental disorders
4. Sexual abuse shall be a intentional unlawful act that infringes upon sexual immunity or sexual freedom of a person, as well as acts of sexual character towards minors;
5. Economic abuse shall be intentional deprivation of a person of housing, food, clothing, property,

and means a person is entitled to by the law.

Article 5. Special Social Services

1. Special social services shall be provided to a victim recognized by law as being in a difficult life situation;
2. Special social services shall include a guaranteed package of special social services and paid-for special social services;
3. Provision of a guaranteed and additional scope of special social services provided in addition to the guaranteed scope, shall be ensured by local executive bodies of districts, cities of the province importance;
4. Standards for provision of the special social services, the order of their provision, rights and responsibilities of a person (a family) in a difficult life situation, shall be defined by the Law on Special Social Services of the Republic of Kazakhstan.

Chapter 2. Domestic Violence Prevention Entities

Article 6. Authority of the Government of the Republic of Kazakhstan

The Government of the Republic of Kazakhstan shall:

- 1) elaborate main directions of the state policy in the field of domestic violence prevention;
- 2) approve program documents in the field of domestic violence prevention;
- 3) ensure interaction between domestic violence prevention entities, and coordinate their activities;
- 4) execute other powers as envisaged by the Constitution, laws of the Republic of Kazakhstan and acts of the President of the Republic of Kazakhstan.

Article 7. Authority of Local Representative and Executive Bodies

1. Local representative bodies shall:

- 1) approve regional program documents in the field of domestic violence prevention, and consider reports about their implementation;
- 2) approve and control fulfilment of, local budgets in the line of domestic violence prevention.
- 3) promote implementation of the principles of this law by citizens and organizations.

2. Local executive bodies shall:

- 1) elaborate and implement regional program documents in the field of domestic violence prevention;
- 2) ensure interaction between domestic violence prevention entities at the local level;
- 3) establish assistance provider organizations and ensure their functioning;
- 4) detect and keep record of minors having suffer from domestic violence, and problem families;
- 5) organize for provision of special social services to victims as established by the Law on Special Social Services of the Republic of Kazakhstan.

Article 8. Commissions on Women Issues and Family and Population Policy

Commissions on Women Issues and Family and Population Policy shall:

- 1) interact with domestic violence prevention entities on issues of preventing domestic violence;
- 2) introduce proposals to local executive bodies for taking organizational/practical measures directed at the prevention of domestic violence;
- 3) together with assistance providers, organize and carry out measures for the prevention of domestic violence and rehabilitation of persons having suffered from domestic violence;

Article 9. Authority of Commissions on Minors and Protection of their Rights

Commissions on Minors and Protection of their Rights shall:

- 1) interact with domestic violence prevention entities on issues of preventing domestic violence among minors;
- 2) participate in the development and implementation of regional programs to prevent domestic violence among minors;
- 3) introduce proposals to local executive bodies for taking organizational/practical measures directed at the prevention of domestic violence among minors;
- 4) together with assistance providers, organize and carry out measures for the prevention of domestic violence and rehabilitation of minors having suffered from domestic violence;

Article 10. Authority of Bodies of the Interior

Bodies of the interior shall:

- 1) elaborate and together with other interested state bodies implement program documents in the field of domestic violence prevention;
- 2) participate in drafting statutory acts in the field of domestic violence prevention;
- 3) implement measures of individual domestic violence prevention;
- 4) detect parents or foster parents failing to perform or to properly perform their responsibilities for upbringing children and committing unlawful acts against them;
- 5) carry out registration for prevention and provide preventive control;
- 6) make visits to the site to investigate upon petitions and notifications about facts of domestic violence or real threat of its commission and take measures for their suppression;
- 7) refer victims to assistance providers or to health organizations;
- 8) carry out preventive interviews;
- 9) deliver perpetrators of domestic violence to bodies of the interior;
- 10) issue a protection order;
- 11) apply to the prosecutor for sanctioning prolongation of the term of the protection order;
- 12) carry out administrative detention;
- 13) apply to court for establishing special requirements to the behaviour of perpetrator of domestic violence;
- 14) carry out criminal prosecution, and process administrative offence cases;
- 15) apply measures of criminal-procedural coercion;
- 16) apply measures of criminal law to ensure safety of the victim;
- 17) provide for organization of special training courses on issues pertaining to domestic violence prevention for officers of bodies of the interior;
- 18) carry out criminological forecasting in the field of domestic violence prevention.

Article 11. Authority of an Competent Education Agency

An Competent education agency shall:

- 1) elaborate and upon agreement with Competent social protection and public health agencies approve of, standards of special social services provision;
- 2) ensure monitoring and needs analysis of students and inmates having suffered from domestic violence, for provision of special social services in line with standards of special social services provision;
- 3) participate in drafting statutory acts in the field of domestic violence prevention;
- 4) elaborate and implement in the practice of educational organizations programs and methodologies directed at cultivation of law-abiding behaviour of students and inmates of educational institutions.

Article 12. Authority of an Competent Public Health Agency

An Competent public health agency shall:

- 1) elaborate and upon agreement with Competent bodies in the field of social protection and education approve standards of special social services;
- 2) elaborate and implement in the practice of health care institutions methodological recommendations for providing medical and psychological assistance to victims;
- 3) participate in drafting statutory acts in the field of domestic violence prevention.

Article 13. Authority of Healthcare Institutions

Public health institutions shall:

- 1) provide addiction treatment, psychological, mental, preventive assistance and carry out medical rehabilitation of victims and perpetrators of domestic violence;
- 2) inform bodies of the interior about visits of persons having suffered from crimes, and about provision of medical assistance to them;
- 3) implement programs for prevention of addictions to alcohol, narcotic drugs and toxic substances;

Article 14. Authority of the Competent Social Protection Agency

The Competent social protection agency shall:

- 1) elaborate and upon agreement with competent bodies in the field of social protection and education approve standards of special social services;
- 2) develop measures for using active forms of employment promotion.

Article 15. Assistance provider organizations

1. Assistance provider organizations shall:

- 1) receive victims;
- 2) arrange for provision of necessary psychological, pedagogical, medical, legal assistance to victims, and whenever necessary, refer them to healthcare institutions for medical care and further rehabilitation;
- 3) whenever possible, provide temporary residence to victims;
- 4) conduct psychocorrectional programs with perpetrators of domestic violence;
- 5) inform bodies of internal affairs about committed or threatened domestic violence;
- 6) carry out legal awareness raising on issues of domestic violence prevention;
- 7) interact with individuals and legal entities on issues of domestic violence prevention.

2. Assistance provider organizations shall be established by local executive bodies, also by legal entities and physical person as specified by the legislation of the Republic of Kazakhstan.

3. Activities of assistance provider organizations shall be funded from the state budget and other sources that are not prohibited by the legislation of the Republic of Kazakhstan.

Chapter 3. Domestic Violence Prevention Measures

Article 16. Regulating Relations Emerging from Application of Domestic Violence Prevention Measures

Relations emerging from application of domestic violence prevention measures shall be regulated in compliance with the Law of the Republic of Kazakhstan on Crime Prevention and in view of the specifics established by this Article.

Article 17. Measures of Individual Measures of Domestic Violence Prevention

1. Individual measures of domestic violence prevention shall be applied for systematic targeted influence upon consciousness and behaviour of a perpetrator of domestic violence, for the purpose of preventing him/her from committing new offences and of ensuring safety of the victim.

2. Individual Measures of Domestic Violence Prevention shall include:

- 1) preventive interviews;
- 2) delivery of the perpetrator of domestic violence to bodies of the interior for drawing up a administrative offence report, or issuing a protection order;
- 3) protection order;
- 4) administrative detention;
- 5) compulsory measures of medical character;
- 6) establishment of special requirements to the behaviour of the offender;
- 7) administrative penalty;
- 8) deprivation or restriction of rights of parents, abrogation of child adoption, exemption or dismissal of guardians/trustees from fulfilling their responsibilities, early termination of a patronage agreement;
- 9) measures of procedural coercion and measures for ensuring security of victims in the criminal process;
- 10) penalty measures as ruled by court.

3. Individual measures for domestic violence prevention shall be determined in view of individual specifics of the person against whom they are taken, the nature and degree of impact that their offences have on public security.

4. A decision on using individual crime prevention measures may be appealed against by interested persons as stipulated by the legislation of the Republic of Kazakhstan.

Article 18. Grounds for Using Measures of Individual Domestic Violence Prevention

1. Grounds for using measures of individual domestic violence prevention shall include:

- 1) Applications or notifications by physical persons and legal bodies;

- 2) Direct detection of facts of committed or attempted domestic violence;
- 3) Materials obtained from state bodies and bodies of local self-government;
2. Applications and notifications about a committed or attempted domestic violence or a real threat of its commission shall be considered by state bodies as specified by the legislation of the Republic of Kazakhstan.

Article 19. Preventive interview

1. Main objectives of a preventive interview shall be detection of causes and conditions for domestic violence, explanation of social and legal consequences of domestic violence, and persuasion in the need of lawful behaviour.
2. A preventive interview shall be conducted by a domestic violence prevention entity with a perpetrator of domestic violence or a person against whom there are grounds for conducting measures of individual domestic violence prevention;
3. Preventive talks shall be conducted in offices of domestic violence prevention entities, also at the place of residence, education, employment or directly on the spot of committed domestic violence, and shall not continue for longer than one hour.
4. A person who is preventively interviewed shall be warned about the need to stop his/her unlawful actions;
5. Preventive talks with minors shall be conducted in the presence of their parents, teachers or other legal representatives.

Article 20. Prevention Order

1. For the purpose of ensuring the security of the victim and in the absence of grounds for administrative detention as envisaged by part 3, Article 622 of the Code of Administrative Offences of the Republic of Kazakhstan, or detention as envisaged by Article 132 of the Criminal Procedural Code of the Republic of Kazakhstan, the head or deputy head of a body of the interior shall issue a protection order that shall be served for implementation upon the perpetrator of domestic violence, or upon the person posing a threat of its commission, against his/her signature. Should the person refuse to sign, a respective record shall be made in the protection order.
A copy of the protection order shall be sent to the prosecutor's office within twenty four hours after delivery to the person against whom it was issued.
2. The protection order shall be issued to a sane person having reached the age of 16 by the moment of its issuance.
3. A protection order prohibits committing domestic violence, searching, chasing, visiting, holding oral, telephone conversations, or otherwise communicating with, the victim against his/her will.
4. A protection order shall indicate time and place of its issuance, by whom and to whom it is issued, time and circumstances of committed or threatened domestic violence, legal consequences in case of continuing the unlawful actions and violation of the protection order.
5. The term of the protection order shall be five days after delivery to the person against whom it was issued.
6. At the request of the victim, the term of the protection order may be prolonged to thirty days by a sanction of the prosecutor following petition of the head or deputy head of a body of the interior.
7. Violation of a protection order shall entail a liability as envisaged by the Code of Administrative Offences of the Republic of Kazakhstan.
8. The person to whom a protection order is issued shall be registered for prevention by bodies of the interior and shall be made subject to preventive control.

Article 21. Administrative Detention

1. For the purpose of suppressing domestic violence containing components of administrative offense, and when there are reasons to believe that a protection order would not be sufficient for ensuring the security of the victim, an official from bodies of the interior shall carry out administrative detention of the perpetrator of domestic violence which means temporary deprivation of the freedom of action and movement by means of coercive custody in a special room;
2. The procedure and terms of administrative detention, rights and responsibilities of detained persons shall be specified by the Code of Administrative Offences of the Republic of Kazakhstan.

Article 22. Establishment of Special Requirements to Behaviour of Offender

1. A court may establish special requirements to behaviour of a domestic violence perpetrator for the purpose of ensuring the security of the victim;
2. Establishment of special requirements to the behaviour of offender shall be a measure of administrative-legal influence and shall be applied along with imposition of an administrative penalty or instead of it when exempting the person having committed an administrative offense from administrative liability.
3. The person to whose behaviour special requirements are established, shall be prohibited to:
 - 1) Search for, chase, visit, hold oral, telephone conversations, or otherwise communicate with, the victim;
 - 2) Purchase, keep, carry, and use firearms and other types of weapons.
4. During the term of special requirements to the behaviour of offender, he/she may be obliged to appear in bodies of the interior from one to four times a month for preventive talks.
5. The procedure for establishing special requirements to the behaviour of offender, its terms, rights and responsibilities of parties in cases of administrative offenses shall be specified by the Code of Administrative Offenses of the Republic of Kazakhstan.
6. The person to whose behaviour special requirements are established, shall be registered for prevention by bodies of the interior and shall be made subject to preventive control.

Article 23. Procedural Coercion Measures and Security Measures in Criminal Procedure

1. For the purposes of suppressing domestic violence containing components of crime, also for ensuring the security of a victim, witness, and other persons participating in the criminal procedure, their family members and close relatives, bodies providing criminal prosecution and leading the criminal procedure shall take measures of procedural coercion and procedural security measures.
2. Grounds for application of procedural coercion measures and procedural security measures, the application procedure, rights and responsibilities of persons participating in the criminal procedure, shall be specified by the Criminal Procedural Code of the Republic of Kazakhstan.

Chapter 5. Final Provisions

Article 24. Supervision over application of the legislation of the Republic of Kazakhstan on prevention of domestic violence

Supreme supervision over precise and uniform application of the Law on Crime Prevention of the Republic of Kazakhstan shall be provided by prosecution bodies.

Article 25. Observation of confidentiality when providing assistance to victims

Information on the victim's private and family life shall be confidential and shall not be subject to disclosure.

Disclosure of confidential information by a person who ex officio learned about a fact of domestic violence shall entail liability as established by laws of the Republic of Kazakhstan.

Article 26. Procedure of Enacting This Law

This Law shall be enacted 10 calendar days after its first official publication.

President of the Republic of Kazakhstan
N. NAZARBAEV

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