

VICTIMS OF DOMESTIC VIOLENCE PROTECTION ACT
B.E. 2550¹

BHUMIBOL ADULYADEJ, REX;

Given on the 25th Day of July B.E. 2550;
Being the 62nd Year of the Present Reign.

His Majesty King BhumibolAdulyadej is graciously pleased to proclaim;

Whereas it is deemed appropriate to have the law governing the protection of victims of domestic violence;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Council, as follows:

Section 1. This Act is called the “Victims of Domestic Violence Protection Act, B.E. 2550”

Section 2. This Act shall come into force after the expiration of ninety days from the date of its publication in the Government Gazette.

Section 3. In this Act,

“Domestic Violence” means any act intended to cause danger to the body, mind, or health, or any intentional act which may cause danger to the body, mind, or health of each of the Person in the Family, or forcing or using immoralpower to control the Personin the Family to act, not act, or accept any certain act wrongfully, but not including an act of negligence.

“Person in the Family” means spouse, former spouse, those who cohabit or used to cohabit as husband and wife without registering for marriage, child, adoptive child,

¹ Translated by Siam City Law Offices Limited under contract for the Office of the Council of State of Thailand's Law for ASEAN project.- Initial version- pending review and approval.

members of the family, including any person who depends on or lives in the same household.

“Court” means the Juvenile and Family Court under the law on Establishment of Juvenile and Family Court and the procedural law on Juvenile and Family case.

“Relief Fund” means the basic compensation for money or any asset which the victims of domestic violence lost as a result of such domestic violence, and the meaning shall include the loss of income, medical expense, relocation expense, and other necessary expenses.

“Psychologist” means a psychologist under the Criminal Procedure Code.

“Social Worker” means a social worker under the Criminal Procedure Code.

“Competent Official” means a person who is appointed by the Minister to perform under this Act, and the meaning shall include the administrative official or police under the Criminal Procedure Code.

“Inquiry Official” means the Competent Official who is assigned by the Minister to be the Inquiry Official under the Criminal Procedure Code. In any area where there is no Competent Official who is assigned by the Minister, the Inquiry Official under the Criminal Procedure Code shall be the Inquiry Official under this Act.

“Minister” means the Minister in charge and control of the execution of this Act.

Section 4. Any person who commits any act which is considered a Domestic Violence, such person shall have committed a Domestic Violence offence and shall be liable to a term of imprisonment not exceeding six months or a fine not exceeding six thousand baht, or to both.

Such offence under paragraph one is an offence which can be compromised, but cannot be eradicated according to the Criminal Code or other laws. If the offence under paragraph one is the offence for physical assault under section 295 under the Criminal Code, such offence shall be the offence which can be compromised.

Section 5. The victim of Domestic Violence or a person who witnesses or knows of the act of Domestic Violence has the duty to notify the Competent Official in order to implement this Act.

Notification to the Competent Official under paragraph one, if performed in good faith, is protected and will not create civil, criminal, and administrative liability.

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Section 6. Notification to the Competent Official under section 5 may be performed verbally, in writing, by telephone, by electronics means, or any other method.

When the Competent Official witnesses the act of Domestic Violence or receives notification under section 5, the Competent Official shall have the power to enter the residence or the scene to interview the person who committed Domestic Violence, the victim of Domestic Violence, or other person who is in the scene. In addition, the Competent Official shall have the power to arrange for the victim of Domestic Violence medical treatment and advice from the psychiatrist, Psychologist or Social Worker. In case the victim of Domestic Violence wishes to pursue a legal action, such victim shall file a complaint according to the Criminal Procedure Code. However, if such victim does not have the ability or opportunity to file the complaint by himself or herself, the Competent Official shall be the person who files the complaint instead.

The rules and procedures under paragraph two shall be in accordance with the Ministerial Regulation prescribed by the Minister.

Section 7. If there is no notification to the Competent Official under section 5 or complaint under section 6 within three months from the time which the victim of Domestic Violence has the ability or opportunity to notify or file a complaint, the case shall be deemed barred by prescription; however, this does not waive the rights of the victim of Domestic Violence or interested person to make a request for welfare protection under the law on Establishment of Juvenile and Family Court and the procedural law on Juvenile and Family case.

Section 8. If the complaint is filed within the prescription period under section 7, the Competent Official shall commence investigation immediately and shall send the person who commits Domestic Violence, the case file along with opinion, to the prosecutor in order to file the case at the Court within forty-eight hours from the time which the person who commits Domestic Violence was arrested. However, if there is necessity which causes an inability to file the case within such time limit, the request for postponement shall be filed to the Court not exceeding six days per postponement; however, the postponement requests shall not exceed three times. The law on Establishment of *Kwang* Court and the procedural law in the *Kwang* Court shall apply *mutatis mutandis*.

In the event where the offence under section 4 paragraph one is the same offence as other laws, such offence shall be prosecuted under section 4 paragraph one to

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the Court along with the offence under other laws, except where the offence under other laws has a higher punishment, the case shall be filed at the court which has the jurisdiction to consider such offence under other laws, applying the provisions of this Act *mutatis mutandis*.

In interviewing the victim of Domestic Violence, the Inquiry Official shall arrange for the psychiatrist, Psychologist, Social Worker, or person which the victim of Domestic Violence requests to join the interview in order to provide advice.

In emergency case where there is a reasonable cause to not wait for the psychiatrist, Psychologist, Social Worker, or person which the victim of Domestic Violence requests, the Inquiry Official shall proceed with the interview first without such person's presence; however, the reason to not wait for those person shall be recorded in the case file.

The rules and execution of the Inquiry Official shall be in accordance with the Ministerial Regulation prescribed by the Minister.

Section 9. When there is a notification under section 5 or filing of a complaint under section 6, no one shall advertise or disseminate to the public in any means the photo, story, or other information which may cause damage to the person who commits Domestic Violence or the victim of Domestic Violence in the case under this Act.

Any person who violates the provision under paragraph one shall be liable to a term of imprisonment not exceeding six months or fine not exceeding sixty thousand baht, or to both.

Section 10. Regarding the action under section 8, the Competent Official with the status not lower than an administrative officer or senior police under the Criminal Procedure Code and has been assigned by the Minister, shall have the power to prescribe measures or methods to alleviate suffering of the victim of Domestic Violence temporarily, notwithstanding if there is a request from such victim or not. Such Competent Official shall have the power to prescribe any order as necessary and appropriate, which includes ordering the person who commits Domestic Violence to receive medical examination and treatment, ordering the person who commits Domestic Violence to pay for the basic Relief Fund as appropriate to his or her status, prohibiting the person who commits Domestic Violence to enter the dwelling of the family or to be proximate to any Person in the Family, as well as ordering the method to take care of the child.

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When the Competent Official issues the order to prescribe any or several measures or methods to alleviate suffering under paragraph one, the Competent Official shall recommend measures or methods to alleviate suffering to the Court within forty-eight hours from the day of giving the order to prescribe such measures or methods to alleviate suffering. If the Court agrees with the order of stipulation of measures or methods to alleviate suffering, such order prescribing measures or methods to alleviate suffering shall continue to be effective.

In the case where the Court disagrees with the order prescribing all or some measures or methods to alleviate suffering or the facts or circumstances change, the Court shall hold an inquiry and shall make the order immediately. If the facts or circumstances are sufficient for the Court to consider giving the order, the Court may revise, amend, or revoke such order to prescribe measures or methods to alleviate suffering or any other order, including prescribing additional conditions.

The relevant person of the Competent Official's or Court's order under this section can submit appeal to the order in writing to inquire the Court to reconsider the order within thirty days from the time which the order is informed. The judgment or the order of the Court shall be final.

Any person who violates or does not comply with the order of the Competent Official or the Court shall be liable to a term of imprisonment not exceeding three months or fine not exceeding three thousand baht, or to both.

Section 11. During the investigation or proceeding, the Court shall have the power to issue an order to prescribe measures or methods to alleviate suffering under section 10 or issue any order as appropriate.

In case the situation or circumstance concerning the person who commits Domestic Violence or victim of Domestic Violence changes, the Court shall have the power to revise, amend, or revoke the order to prescribe measures or methods to alleviate suffering or any other order, including prescribing additional conditions.

Any person who violates or does not act according to the order of the Court shall be liable to a term of imprisonment not exceeding six months or fine not exceeding six thousand baht, or to both.

Section 12. In the case where the Court finds the person who commits Domestic Violence guilty under section 4, the Court shall have the power to determine the method to rehabilitate, treat, control the behavior of the offender, order the offender to

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compensate the alleviation of suffering, work for the public services, omit the act which causes Domestic Violence, or under parole in accordance with the method and duration prescribed by the Court instead of punishing the offender.

In case there is a compromise, withdrawal of complaint, or withdrawal of claim in the offence under section 4, the Inquiry Official or the Court, as the case may be, shall arrange the recording of preliminary agreement before such compromise, withdrawal of complaint, or withdrawal of claim. In addition, the Inquiry Official or the Court shall arrange for the method under paragraph one as a condition in performing such recorded agreement, *mutatis mutandis*, and may accept supporting opinion of the injured person or Person in the Family. If the actions according to such recorded agreement and conditions are fully performed, then the compromise, withdrawal of complaint, or withdrawal of claim in the offence under section 4 shall be allowed. If the offender or defendant violates or does not act according to such condition, the Inquiry Official or the Court shall have the power to dismiss the case.

The measures and methods under paragraph one and two shall be in accordance with the rules which the Chief Justice of the Central Juvenile and Family Court announces in the Government Gazette or which the Minister prescribes, as the case may be.

Section 13. The Ministry of Social Development and Human Security shall arrange for the system to support the operation and enforcement of section 10, section 11, and section 12 by prescribing in the Ministerial Regulation.

Section 14. The procedure, submission, and evidentiary hearing, if not specifically prescribed in this Act, shall use the law on Establishment of Juvenile and Family Court and the procedural law on Juvenile and Family case to apply, *mutatis mutandis*.

Section 15. Regardless of the extent which the Domestic Violence proceeding has been carried out, the Court shall try to achieve compromise among the litigants by focusing on the peace and co-existence of the family as priority. In addition, the following principles shall be considered:

- (1) protection of the victim of Domestic Violence rights;
- (2) preservation and protection of marital status as the centre of men and women who voluntarily live together as husband and wife. If the marital status cannot be preserved, there shall be divorce with fairness and minimum damage by considering the welfare and future of the child as priority.

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(3) family protection and support especially when such family is responsible for taking care of and providing education to the family member who is a minor.

(4) different measures to assist the husband and wife and Person in the Family to live in harmony and to improve the relationship between themselves and the child.

Section 16. For the purpose of achieving a compromise in the Domestic Violence case, the Competent Official or the Court, as the case may be, may assign conciliators which include a person or group of persons who are father, mother, guardian, relative of the litigants, or a person who the Competent Official or the Court considers as appropriate to provide advice or support in the conciliation so such the litigants can achieve a compromise, or may assign the Social Worker, social welfare agency, or any person to conciliate so such litigants can achieve a compromise.

When the conciliator or person who is assigned under paragraph one conducts conciliation under the order of the Competent Official or the Court, the conciliator or person who is assigned under paragraph one shall inform the results of such conciliation to the Competent Official or the Court, as the case may be. In the case where conciliation is achieved, such person shall arrange for a compromise agreement or request for litigants to enter into a compromise agreement before the Competent Official or the Court.

When the Competent Official or the Court opines that the compromise agreement does not violate the laws and public order or good morals, the Competent Official or the Court shall comply with such compromise agreement.

Section 17. The Ministry of Social Development and Human Security shall prepare an annual report displaying the number of Domestic Violence cases, the number of orders prescribing the measures or methods to alleviate suffering, and the number of violations of the orders prescribing the measures or methods to alleviate suffering of the Competent Official and the Court, and the number of compromises, and shall report to the cabinet and parliament once a year.

Section 18. The Minister of Social Development and Human Security shall be in charge and control of the execution of this Act and shall have the power to appoint the Competent Official and issue Ministerial Regulation and rules for the execution of this Act.

Such Ministerial Regulation and rules shall come into force upon their publication in the Government Gazette.

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Countersigned by
General SurayudChulanont
Prime Minister

Note :- The rationale for promulgation of this Act is as follows: As the issues of resolving Domestic Violence are sensitive complex and related to the person of close relations and have special characteristics which differ from personal assault in general, the enforcement of criminal measures under the Criminal Code is considered inappropriate as the Criminal Code has the intention to punish the offender rather than to rehabilitate the offender or protect the victim of Domestic Violence. Therefore, it is deemed appropriate to have laws which protect the victim of Domestic Violence rather than to apply criminal procedures. This is because laws which protect the victim of Domestic Violence can be customised in terms of form, method, and steps which are different from criminal proceedings in general. These laws provide the offender a chance to reform himself or herself and deter repeated offence, and can preserve good relationship within the family. Moreover, the child, juvenile, and Person in the Family have the right to receive protection from violence acts and unfair treatment. It is therefore necessary to promulgate this Act.

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