

Sierra Leone Domestic Violence Act, 2007



Africa Legal Aid

Accra – The Hague – Pretoria

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The Domestic Violence Act, 2007. No. 20 2007, Sierra Leone.
Being an Act to suppress domestic violence, to provide protection for the victims of domestic violence and to provide for other related matters.

ENACTED by the President and Members of Parliament in this present Parliament assembled.

Date of commencement.

SIGNED this *26th day of July, 2007*

ALHAJI AHMAD TEJAN KABBAH,

President.

PART I

INTERPRETATION

1. In this Act, unless the context otherwise requires-

“abuse” means conduct that harms or is likely to cause harm to the safety, health or well-being of the complainant;

“aggravated” in relation to domestic violence refers to any act of domestic violence where-

(a) it has caused the victim to suffer wounding or grievous bodily harm; or

(b) the court otherwise considers the incident or incidents to be so serious as to be aggravated, taking into consideration-

(i) whether a weapon was used;

(ii) any failures to respond to previous warnings by the police, the court or any official body;

(iii) evidence of premeditation;

(iv) whether the victim is particularly vulnerable; and

(v) any other consideration the court considers appropriate;

“applicant” means a person who applies for a protection order under this Act;

“associated respondent” means a person associated with another person against whom an application for a protection order has been brought;

“child” means a person below eighteen years;

“complainant” means a person who makes a complaint to the police under section 5;

“court” means the High Court or Magistrate’s Court;

“economic abuse” means

(a) the unreasonable deprivation of any economic or financial resources to which the complainant, or a family member or dependant of the complainant is entitled under any law, requires out of necessity or has a reasonable expectation of use, including household necessities and mortgage bond repayments or rent payments in respect of a shared household;

(b) unreasonably disposing of moveable or immovable property in which the complainant or family member or dependant of the complainant has an interest or a reasonable expectation of use;

(c) destroying or damaging property in which the complainant, or a family member or a dependant of the complainant has an interest or a reasonable expectation of use;

“emergency monetary relief” means compensation for monetary losses suffered by a complainant at the time of the issue of a protection order as a result of the domestic violence, including, as appropriate-

- (a) loss of earnings;
- (b) medical and dental expenses;
- (c) relocation and accommodation expenses; and
- (d) household necessities;

“harassment” means sexual contact without the consent of the person with whom the contact is made, repeatedly making unwanted sexual advances, repeatedly following, pursuing or accosting a person or making persistent, unwelcome communication with a person and includes -

- (a) watching, loitering outside or near a building where the harassed person resides, works, carries on business, studies or happens to be;
- (b) repeatedly making telephone calls or inducing a third person to make telephone calls to the harassed person, whether or not conversation ensues;
- (c) repeatedly sending, delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic mail or other objects or messages to the harassed person’s residence, school or workplace; or
- (d) engaging in any other menacing behaviour;

“household chattels” include jewellery, clothes, furniture and furnishings, refrigerator, television, radiogram, other electrical and electronic appliances, kitchen and laundry equipment, simple agricultural equipment, hunting equipment, books, motor vehicles, other than vehicles used wholly for commercial purposes, and household livestock;

“interim protection order” means an order made by the court under section 12 pending the final determination of an application;

“intimidation” means intentionally inducing fear in another person by-

- (a) threatening to abuse that person or a third party;
- (b) threatening to damage, destroy or dispose of property in which that person or a third party has a material interest; or
- (c) exhibiting a weapon before that person;

“marriage” includes marriage under any custom or religion;

“Minister” means the Minister responsible for social welfare and “Ministry” shall be construed accordingly;

“next friend” means a person who intervenes to assist a child to bring a legal action;

“offender” means a person against whom a complaint of domestic violence is filed;

“order” means a protection order;

“physical abuse” means physical assault or use of physical force against another person, including the forcible confinement or detention of another person and the deprivation of another

person of access to adequate food, water, clothing, shelter, rest, or subjecting another person to torture or other cruel, inhuman or degrading treatment or punishment;

“place of safety” means premises where the welfare of a victim of domestic violence is assured;

“protection order” means an order made by the court under sections 13, 14 and 15 on the final determination of an application;

“respondent” means a person against whom a protection order is brought;

“sexual abuse” means the forceful engagement of another person in a sexual contact, whether married or not, which includes sexual conduct that abuses, humiliates or degrades the other person or otherwise violates another person’s sexual integrity, whether married or not, or a sexual contact by a person aware of being infected with human immunodeficiency virus (HIV) or any other sexually transmitted infection with another person without that other person being given prior information of the infection.

PART II - OFFENCE OF DOMESTIC VIOLENCE

2. (1) It is an offence under this Act for any person in a domestic relationship to engage in any act of domestic violence.

For the purposes of subsection (1), domestic violence means any of the following acts or threat of any such act:-

(a) physical or sexual abuse;

(b) economic abuse;

(c) emotional, verbal or psychological abuse, including any conduct that makes another person feel constantly unhappy, humiliated, ridiculed, afraid or depressed or to feel inadequate or worthless;

(d) harassment, including sexual harassment and intimidation;

(e) conduct that in any way harms or may harm another person, including any omission that results in harm and either-

(i) endangers the safety, health or wellbeing of another person;

(ii) undermines another person’s privacy, integrity or security; or

(iii) detracts or is likely to detract from another person’s dignity or worth as a human being.

(3) An offence under subsection (1) shall be punishable by a fine not exceeding Le5,000,000 or by a term of imprisonment not exceeding 2 years or by both such fine and imprisonment.

3. (1) A domestic relationship means a family relationship, a relationship akin to a family relationship or a relationship in a domestic situation that exists or has existed between a complainant and an offender and includes a relationship where the complainant –

(a) is or has been married to the offender;

(b) lives with the offender in a relationship in the nature of a marriage notwithstanding that they are not, were not married to each other or could not or cannot be married to each other;

(c) is engaged to the offender, courting the offender or in an actual or perceived romantic, intimate, or cordial relationship not necessarily including a sexual relationship with the offender;

(d) and the offender are parents of a child, are expecting a child together or are foster parents to a child;

- (e) and the offender are family members related by consanguinity, affinity or adoption; or would be so related if they are married either customarily or under any enactment or were able to be married or if they were living together as spouses although they are not married;
 - (f) and the offender, share or shared the same residence or are co-tenants;
 - (g) is a parent, an elderly blood relation or is an elderly person who is by law a relation of the offender;
 - (h) is a house-help in the household of the offender;
 - (i) lives in or attends a public or private care institution and is under the care and control of the offender; or
 - (j) is in a relationship determined by the court to be a domestic relationship.
- (2) A court shall, in a determination under paragraph (j) of subsection (1) have regard to -
- (a) the length of time the persons spend together;
 - (b) the place where that time is ordinarily spent;
 - (c) the manner in which that time is spent; and
 - (d) the duration of the relationship.
- (3) Without prejudice to subsection (1), a person is in a domestic relationship where the person -
- (a) is providing refuge to a complainant whom an offender seeks to attack; or
 - (b) is acting as an agent of the offender or encouraging the offender;

4. (1) A single act may amount to domestic violence.

(2) A number of acts that form a pattern of behaviour may amount to domestic violence even though some or all of the acts when viewed in isolation may appear minor or trivial.

(3) When a cause for complaint has arisen between persons in a domestic relationship and the persons do not cohabit, none of those persons shall enter into the residence of the other person without permission.

5. (1) A victim of domestic violence or any other person with information about domestic violence may file a complaint about the domestic violence.

(2) A child may be assisted by a next friend to file a complaint of domestic violence.

(3) Notwithstanding subsection (1), a complaint of domestic violence shall be filed by a social welfare officer or health care provider where the intervention is in the interest of the victim.

(4) Where a victim is, for any reason, unable to file a complaint personally, a member of the victim's family may file a complaint on behalf of the victim.

(5) Where a person who could have been a complainant under this Act has died, the complaint may be made by the deceased person's personal representative or by a member of the deceased's family or any other person competent to represent the deceased.

(6) A complaint of domestic violence shall be filed with the police at the place where -

- (a) the offender resides;
- (b) the victim resides;
- (c) the domestic violence occurred or is occurring; or
- (d) the victim is residing temporarily, where the victim has left his or her usual place of abode.

6. A police officer shall respond promptly to a request by any person for assistance from domestic violence and shall offer such protection as the circumstances of the case or the person who made the report required even when the person reporting is not the victim of the domestic violence.

7. (1) When a police officer receives a complaint under subsection (6) of section 5, the officer shall –

- (a) interview the parties and witnesses to the domestic violence, including children;
- (b) record the complaint in detail and provide the victim with an extract of the complaint upon request in a language the victim understands;
- (c) assist the victim to obtain medical treatment, where necessary;
- (d) assist the victim to a place of safety as the circumstances of the case or as the victim requires where the victim expresses concern about safety;
- (e) protect the victim to enable the victim retrieve personal belongings, where applicable;
- (f) assist and advise the victim to preserve evidence; and
- (g) assist and advise the victim of his or her rights and any services which may be available.

(2) Police assistance to a victim under paragraph (c) of subsection (1) consists of issuing a medical form to the victim and, where necessary, sending the victim to a medical facility.

(3) A victim of domestic violence who is assisted by the police to obtain medical treatment under paragraph (c) of subsection (1), shall be entitled to free medical treatment and a free medical report within fourteen days of the issuance of the medical form.

(4) Family mediation or intervention shall not be a bar to the investigation or prosecution of a complaint of domestic violence.

8. (1) A police officer may arrest a person for domestic violence with a warrant issued in pursuance of this Act or without a warrant.

(2) A police officer may arrest a person for domestic violence without a warrant where -

- (a) an act of domestic violence is committed in the presence of the police officer;
- (b) the police officer is obstructed by the person in the execution of police duties; or
- (c) the person is held in lawful custody under this Act and has escaped or attempts to escape from such custody.

(3) A police officer may arrest without warrant upon reasonable grounds of suspicion, a person who -

- (a) has committed an offence of domestic violence; or
- (b) is about to commit an offence of domestic violence and there is no other way to prevent the commission of the offence.

(4) A police officer may arrest a person without warrant if the officer has reasonable cause to believe that the person has contravened or is contravening a protection order issued under section 12 or 13.

9. (1) A person may, without warrant, arrest another person if that other person commits an act of domestic violence in his presence.

(2) A person may, without warrant, arrest another person where the person has reasonable suspicion that the other person has committed an offence of domestic violence.

(3) A person who effects an arrest under subsection (1) or (2) shall, within a reasonable time, being not more than twelve hours after the arrest, hand over the person arrested to the police.

PART III - PROTECTION ORDERS

10. (1) An applicant may apply to a court for a protection order to prevent –

- (a) a respondent;
- (b) an associated respondent; or
- (c) both a respondent and an associated respondent, from carrying out a threat of domestic violence against a complainant or any other person or to prevent the respondent, an associated respondent or both from further committing acts which constitute domestic violence against a complainant or any other person.

(2) The application may be filed in a court situated where-

- (a) the applicant or complainant resides, carries on business or is employed;
- (b) the respondent resides, carries on business or is employed; or
- (c) the act of domestic violence occurred or is occurring or is likely to occur.

The application may be made *ex-parte*, unless the court otherwise orders it to be on notice.

(4) A court before which criminal proceedings in relation to domestic violence is pending may, on its own motion, considering the circumstances of the case, or on an application by the victim, issue a protection order in respect of the victim.

11. (1) Proceedings for a protection order shall be held in chambers in the presence of the parties, their legal practitioners and any other person permitted by the court to be present.

(2) Notwithstanding subsection (1), where the court is of the opinion that the presence of the respondent is likely to have a serious adverse effect on the victim or a witness, the court may take such steps as it considers necessary to separate the respondent from the victim or the witness, without sacrificing the integrity of the proceedings.

(3) Subject to subsection (3) of section 10, an application for a protection order shall be heard by the court within a period of 14 days of the filing of the application.

(4) The court may request a social enquiry report on any of the parties to the proceedings and the report shall be prepared and submitted to the court by a social worker, probation officer or other person appointed by the court, as appropriate.

(5) The report shall contain details of the circumstances of the domestic violence, an assessment of the effect of the violence and any other information considered expedient by the social worker, probation officer or other person appointed by the court.

12. (1) Where an application is made *ex-parte* to the court for a protection order, the court shall issue an interim protection order if it considers the order to be in the best interest of the applicant.

(2) In determining whether it is in the best interest of the applicant to issue an interim protection order, the court shall take into account-

(a) whether there is a risk of harm to the applicant or a relation or friend of the applicant if the order is not made immediately;

(b) whether it is likely that the applicant will be deterred or prevented from pursuing the application if an order is not made immediately;

(c) whether there is reason to believe that the respondent is deliberately evading service of notice of the proceedings and the applicant, or any person in a domestic relationship with the respondent, will be prejudiced by the delay involved in effecting service.

(3) An interim protection order shall be for a period of three months and the court may, where it thinks fit, extend it for a period not exceeding three months.

(4) The court shall, when making an interim protection order where the respondent is not already before the court, summon the respondent to appear within the period of three months referred to in subsection (3) to show cause why the interim order should not be made final.

(5) If the respondent fails to appear before the court in accordance with subsection (4), the order shall become final.

(6) Where an application is made on notice to the court for a protection order and the court is of the opinion that -

(a) the respondent is committing, has committed or is likely to commit an act of domestic violence; and

(b) the applicant will suffer significant harm if a protection order is not issued, the court may issue an interim protection order pending the consideration of the order applied for.

(7) Where the court grants an interim protection order, it shall apply the provisions contained in subsection (1) of section 13, and subsection (1) of section 15 and may apply any of the provisions contained in subsection (2) of section 13 and subsection (2) of section 15.

13. (1) The court may issue a protection order to prohibit a respondent from committing or threatening to commit an act of domestic violence personally or otherwise against an applicant or a relation or a friend of the applicant.

(2) The protection order may prohibit the respondent from-

(a) physically assaulting or using physical force against the applicant or any relation or friend of the applicant;

(b) forcibly confining or detaining the applicant or any relation or friend of the applicant;

(c) depriving the applicant access to adequate food, water, clothing, shelter or rest;

(d) forcing the applicant to engage in any sexual contact, whether married or not;

(e) engaging in any sexual conduct that abuses, humiliates, or degrades the applicant or otherwise violates the applicant's sexual integrity, whether married or not;

(f) depriving or threatening to deprive the applicant of -

(i) economic or financial resources to which the applicant is entitled by law, including house mortgage repayments or rent payments in respect of shared accommodation; and

(ii) household chattels required by the applicant as a matter of necessity;

(g) contacting the applicant at work or other places frequented by the applicant;

(h) contacting the applicant by telephone or any other form of communication;

(i) disposing of or threatening to dispose of movable or immovable property in which the applicant has a material interest;

(j) destroying or damaging, or threatening to destroy or damage property in which the applicant has a material interest;

(k) hiding or hindering the use of property in which the applicant has a material interest;

(l) threatening to abuse the applicant;

(m) harassing the applicant;

(n) entering the applicant's residence without consent, where the parties do not share the same residence;

(o) emotionally, verbally or psychologically abusing the applicant;

(p) coming within 50 metres of the applicant; or (q) doing any act which the court considers is not in the best interest of the applicant.

14. A final protection order issued by the court shall not exceed twelve months in the first instance but may, for good cause shown, be extended, modified or rescinded by the court on a motion by a party to the original proceeding.

15. (1) A protection order shall include a provision restraining the respondent from subjecting the applicant to domestic violence.

(2) A protection order may, at the request of the applicant or on the court's own motion, include any or all of the following:-

(a) a provision which –

(i) binds the respondent to be of good behaviour;

(ii) directs the respondent to seek counselling or other rehabilitative service;

(iii) directs the respondent to relocate and continue to pay any rent, mortgage payment and maintenance to the applicant;

(iv) forbids the respondent to be, except under conditions specified in the order, at or near places frequented by the applicant or by any child or other person in the care of the applicant;

(b) a provision directing the respondent to surrender any firearm or other specified weapon in the possession of the respondent, which may also include, if appropriate –

(i) a provision suspending any firearm licence in the name of the respondent for the duration of the protection order;

(ii) a provision authorizing the police to search for and seize any weapon at any specified place where there is probable cause to believe that the weapon may be located;

(c) a provision restraining the applicant or respondent or both from taking, converting, damaging, or otherwise dealing in property in which the other party may have an interest or a reasonable expectation of use;

(d) a provision temporarily directing the respondent to make periodic payments in respect of the maintenance of the applicant, and of any child of the applicant, if the respondent is legally liable to support the applicant or the child, as an emergency measure where no such maintenance order is already in force, together with such other emergency monetary relief as is appropriate;

(e) a provision granting temporary sole custody-

(i) of a child of the applicant to any appropriate custodian other than the respondent; or

(ii) of any child of the applicant or any child in the care of the applicant to the applicant or to another appropriate custodian if the court is satisfied that that is reasonably necessary for the safety of the child in question;

(f) a provision temporarily–

(i) forbidding contact between the respondent and any child of the applicant;

(ii) specifying that contact between the respondent and a child of the applicant, must take place only in the presence and under the supervision of a social worker or a family member designated by the court for that purpose; or

(iii) allowing such contact only under specified conditions designed to ensure the safety of the applicant, any child who may be affected, and any other family members; if the court is satisfied that that is reasonably necessary for the safety of the child in question;

(g) a provision ordering the relocation of the applicant to a safe house to be provided by the Minister and compelling the respondent to pay rent for the period the applicant resides in such a safe house if the court is satisfied that that is reasonably necessary for the safety of the applicant or any child or person in the care of the applicant;

(h) any other provisions that the court thinks reasonably necessary to ensure the safety of the applicant or any child or other person who is affected.

16. (1) A court may extend a protection order to any person specified in the order other than the applicant if the court is satisfied that –

(a) the respondent is engaging in or has engaged in conduct, which, if the person specified in the order, (referred to hereafter as the “specified person”), were or had been in a domestic relationship with the respondent, the conduct would amount to domestic violence against the specified person;

(b) the respondent’s conduct towards the specified person is due, in whole or in part to the applicant’s relationship with the specified person; or

(c) the extension of the protection order is necessary for the protection of the specified person.

17. (1) Where the court, in issuing a protection order, considers it expedient to issue an occupation order, the court may issue an order to vacate the matrimonial home or other home which shall only be issued by the court after the consideration of a social enquiry report prepared by a social worker, a probation officer or other person appointed by the court, as appropriate.

(2) The court shall consider the effect of the order or omission of the order on the health, education and development of the family where the complainant and the respondent are in a marital relationship.

(3) A landlord shall not evict an applicant solely on the basis that the applicant is not a party to a lease, where a residence is rented by a respondent but exclusive occupation is given to the applicant by the court.

(4) In furtherance of subsection (3), the landlord shall provide the details of the lease to the applicant on request.

18. (1) A court may discharge a protection order on an application on notice by an applicant or a respondent.

(2) The discharge of the order may occur even though the order –

(a) applies for the benefit of a specified person in the order other than the applicant;

(b) applies against an associated respondent.

(3) Upon the discharge of an order under subsection (2), it shall cease to have effect for the benefit of any specified person or associated respondent as if either of them had applied for or been granted a discharge of the order.

(4) Where a discharge order applies for the benefit of a specified person or against an associated respondent, either of them may apply for the order to be discharged in so far as it applies to them. An application may be made under this section for the discharge of an interim order in which case the court shall fix a hearing date as soon as practicable and no later than thirty days after the filing of the application unless there are special circumstances.

19. (1) Any person who contravenes a protection order commits an offence and is liable on conviction to a fine not exceeding Le5,000,000 or to a term of imprisonment not exceeding 3 years or to both such fine and imprisonment.

(2) Any person convicted of a subsequent offence of contravening a protection order is liable on conviction to a fine not exceeding Le5,000,000 or to a term of imprisonment not exceeding 3 years or to both such fine and imprisonment.

(3) A complainant who, with intent to induce a police officer to perform any act or exercise any power provided in this Act in relation to a contravention of a protection order, intentionally gives false information to the police officer or fails to provide information to the police officer in order to induce him to do any act or exercise any power under this Act, commits an offence and is liable on conviction to a fine not exceeding Le1,000,000 or to a term of imprisonment not exceeding 1 year or to both such fine and imprisonment.

PART IV–MISCELLANEOUS

20. (1) Where in a criminal trial in respect of domestic violence which is not aggravated -

(a) the complainant expresses the desire to have the matter settled out of court, the court shall refer the case for settlement by any alternative dispute resolution method; or
(b) the court is of the opinion that the case can be amicably settled, it may, with the consent of the complainant refer the case for settlement by any alternative dispute resolution method.

(2) Where any case is referred for settlement under subsection (1), the court shall, in addition -

(a) refer the complainant and the offender for counselling;
(b) where necessary, require the offender to receive psychiatric help;
(c) after consultation with the Ministry, appoint a probation officer to observe and report on the subsequent conduct of the offender to the court.

(3) Where a probation officer reports that the offender has engaged in any act of domestic violence after the settlement, the offender shall be brought before the court and prosecuted under section 21.

(4) In any criminal trial in respect of domestic violence which is aggravated, the court shall not consider or approve any settlement of the matter out of court, whether in accordance with subsections (1), (2) and (3) or not.

21. An applicant or respondent may apply to the court which granted a protection order, for the modification or cancellation of the protection order.

22. The Minister shall, for the purpose of this Act, provide for public education on domestic violence and the contents of this Act.

23. The Minister may, by statutory instrument, make regulations providing for -

(a) forms necessary for the purposes of this Act;
training of the police and court officials on domestic violence;
(c) the education and counselling of victims and perpetrators of domestic violence;
(d) place of shelter for victims;
(e) enhancement of social welfare services for victims;
(f) the modalities for the provision of free medical treatment for victims; and
(g) any matter for the effective implementation of this Act.

Passed in Parliament this 14th day of June, in the year of our Lord two thousand and seven.

A. A. KEMOKAI,
Clerk of Parliament