

On the protection of women and other family members from domestic violence

law
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Law 293/2014

Bill for the Protection of Women and Other Family Members from Family Violence

Article 1:

The provisions of the present law shall apply to family violence as per the rules established in the Articles below.

Article 2:

The terms below, wherever stated in the present law, shall carry the meaning hereafter:

*Family: the spouse, the mother, father, brother, sister, ascendant or descendant of the same, legal or illegal, as well as persons related thereto by adoption, marriage, guardianship or custody up to the fourth degree, orphans in the care thereof, or stepmothers or stepfathers.

*Family violence: Family violence includes every act of violence, abstinence or threat thereof committed by one family member against one or more members as per the definition of family, encompassing one of the crimes stipulated herein, the consequences of which may cause death or physical, psychological, sexual and economical injury.

Article 3:

Crimes of family violence shall be punished as follows:

1- Article 618 of the Penal Code shall be amended as follows:

Article 618: Whoever shall incite a minor aged less than 18 year to begging shall be sentenced to a term of imprisonment of no less than one month and no more than one year and shall be subject to a fine of no less than the minimum wage and no more than double its amount.

2- Article 523 of the Penal Code shall be amended as follows:

Article 523: Whoever shall instigate one person or more, male or female, that has not completed the age of twenty one to engage in prostitution or corruption, and whoever shall facilitate the same by aiding or abetting, shall be sentenced to imprisonment between one month and one year and shall be subject to a fine varying between the minimum wage and three folds the same. Shall be subject to the same sentence whoever is involved in secret prostitution or engages in the facilitation thereof.

Without prejudice to the provisions of Article 529 annexed to Article 506, the sentence shall be increased as per the provisions of Article 257 of the present Law where the crime is committed within the family regardless the age of the person against whom the crime is committed.

3- Article 527 of the Penal Code shall be amended, a new paragraph shall be added thereto as follows:

Whoever shall rely on the prostitution of a third party to gain his/her living, whether fully or partially, shall be sentenced to a term of imprisonment of no less than six months and no more than two years and shall be fined not less the minimum wage and not more double its amount.

Without prejudice to the provisions of Article 529 added to Article 506 of the Present law, the sentence shall be increased where the crime involves violence or threat.

4- A new paragraph shall be added to Article 547 of the Penal Code as follows:

Article 547: Whoever shall commit homicide purportedly shall be sentenced to hard labor between fifteen and twenty years. The sentence shall vary between twenty and twenty five years, where homicide is committed by one spouse against the other.

5- Amending Article 559 of the Penal Code to read as follows:

The sentences herein shall be increased as per the provisions of Article 257 where the offense is committed in one of the cases established in Paragraph two of Articles 547 and 549 of the Present Law.

6- Articles 487, 488 and 489 of the Penal Code shall be amended as follows:

Article 487: Adultery committed by one of the spouses shall be sentenced to a term of imprisonment of no less than three months and no more than two years. The same sentence shall apply to partners in adultery where they are married; otherwise they shall be sentenced to imprisonment for not less than one month and not more than one year.

Article 488: The spouse shall be punished to imprisonment for not less than one month and not more than one year where he/she takes a lover in public. The partner shall be subject to the same sentence.

Article 489:

- Adultery shall only be prosecuted upon the complaint of one of the spouses and where the plaintiff associates in a court action with the public prosecutor;
- Partners or accomplices shall only be prosecuted together with the adulterer;
- A complaint filed by the spouse having given his/her consent to the adultery shall be null;
- A complaint filed three months after the plaintiff became informed of the crime shall not be accepted;
- Depriving the spouse of his/her right, results in annulling public and private actions against the offenders;
- Where the plaintiff accepts to resume life in common, charges are dropped.

7- a) Whoever shall with the intent of redeeming marital rights to intercourse or because of the same, beat the spouse or inflict harm thereto, shall be subject to one of the sentences established in Articles 554 to 559 of the Penal Code.

Where beating or harming recurs, the sanction shall be increased as per the provisions of Article 257 of the Penal Code.

Where the plaintiff drops charges, public action subject to Articles 554 and 555 of the Penal Code shall be refuted.

Provisions governing recidivism shall remain applicable, where conditions are satisfied.

7- b) Whoever shall with the intent of redeeming marital rights to intercourse or because of the same, threat the spouse, shall be subject to one of the sentences established in Articles 573 to 578 of the Penal Code.

Where threat recurs, the sanction shall be increased as per the provisions of Article 257 of the Penal Code.

Where the plaintiff drops charges, public action subject to Articles 577 and 578 of the Penal Code shall be refuted.

Provisions governing recidivism shall remain applicable, where conditions are satisfied.

Article 4: The State Prosecutor shall appoint one public attorney or more in the Mohafaza and entrust him/her with receiving the complaints on family violence and following up on the same.

Article 5:

A special unit on family violence shall be established at the Directorate General of the Internal Security Forces (ISF), shall carry tasks similar to the judiciary police and shall examine the complaints submitted before the same and referred thereto according to the provisions of the present law.

The Unit shall be established as per the laws and regulations governing the ISF so as to cover the entire Lebanese territories.

The Unit shall be composed of three women, members shall be adequately trained to solve conflicts and carry social guidance.

Unit members shall carry investigations in presence of social assistants who are acquainted with family affairs and conflict resolution and who shall be selected from a list prepared by the Ministry of Social Affairs.

The Unit shall have jurisdiction in the event of complicity.

Unit members may inspect the crime scene where necessary as per the applicable laws.

Article 6:

In addition to territorial jurisdiction governed by the general rules, the victim shall have the right to initiate proceedings in his/her temporary or permanent domicile.

Article 7:

Without prejudice to the provisions of Article 41 of the Code of Criminal Proceedings (CCP), the judiciary police shall without delay set off to the crime scene where family violence is committed after informing the competent Public Attorney:

- where a witnessed family violence crime is committed;
- where the police is informed that a restraining order relevant to family violence is violated.

Article 8:

The judiciary agent who attempts by means of coercion to force the victim of violence or exert pressure thereupon to drop charges, shall be subject to the sentence stipulated in Article 376 of the Penal Code.

Any neglect by the judiciary agent to deal with the complaint and information related to family violence shall be considered a major offense as per the provisions of Article 130, Paragraph 2 of Law number 17 dated 6/9/1990 (on organizing the ISF). The offender shall appear before the Disciplinary Council.

Article 9:

The Judiciary Police shall upon receiving complaints and information and upon the review of the Attorney General entrusted with matters of family violence and under the supervision thereof:

- listen to the victim and suspect upon their wish in presence of the social assistant referred to in Article 5 of the present law, and shall inform them with this right as well as with all their rights stipulated in Article 47 of the CCP,
- listen to all witnesses of family violence including minor children, in presence of the social assistant as per Article 34 of Law 422, dated June 6, 2002.

Article 10:

The Judicial police shall inform the victim with his/her right to obtain a restraining order as per Article 12 of the present law and to assign an attorney if he/she wishes to. It shall also inform the victim with all other rights stipulated in Article 47 of the CCP.

Article 11:

The Public Attorney shall receive all complaints related to family violence and prior to the issuing of the restraining order by the relevant authority, shall entrust the judiciary police under his/her supervision to take one of the measure below:

- 1- Ensure that the defendant undertakes to refrain from causing harm to the victim and other persons established in Article 12 of the present law or refrains from instigating anyone to cause them harm subject to implementing clause 1, paragraph (b) of the present Article.
- 2- Where the same persons are exposed to violence:
 - a. the defendant shall be prohibited from accessing the household for a period of 48 hours renewable once, if no other means is available to protect the victim, his/her children and the persons enumerated in Article 12 of the present law;
 - b. the defendant shall be held in custody as per Article 12 of the CCP;
 - c. the victim and the persons enumerated in Article 12 shall, upon their request, be transferred to a safe place at the expense of the defendant and with due consideration of his/her means.
- 3- Where violence results in medical or hospital therapy, the victim of violence shall be transferred to hospital provided the defendant pays for treatment expenses in advance. Where the defendant refrains from paying treatment expenses in advance as per clause "c" of paragraphs (2) and (3) of the present Article, he/she shall be subject to the provisions applicable to alimony in the Code of Civil Procedures. Contrarily to Article 999 of the Code of Civil Procedures, the decision to lock the defendant having refrained from paying the aforementioned expenses shall be made by the Public Prosecution.

Article 12

A restraining order is a temporary measure made by the relevant authorities as per the provisions of the present law and in the course of examining the cases of family violence.

The restraining order aims at protecting the victim and his/her children. As for other descendents and persons living with him/her, they shall benefit from the restraining order where they are in danger. Social assistants, witnesses and any other person providing the victim with assistance shall as well benefit from the restraining order in order to prevent violence or the threat thereof from continuing or recurring.

Children involved de facto in the restraining order mean those children who are in the age of legal custody as per the provisions of the Codes on Personal Statute and other applicable laws.

Article 13:

The request to obtain a restriction order shall be filed before the relevant investigating judge or the Penal Court entrusted with the same and shall be examined in the deliberation room.

The request may as well be submitted before the judge in chambers to apply for summary procedures.

The decision made by the investigating judge or the single appellate magistrate as per the CCP provisions shall be accepted.

Lodging an appeal to challenge the decision relevant to therestraining order shall not stop implementation thereof unless the relevant court decides otherwise.

The decision issued by any of the legal authorities mentioned in the present Article shall not be challenged.

The decision shall be rendered in the cases established in paragraphs one and two of the present article within no more than forty eight hours.

Article 14:

The restraining request shall compel the defendant to take one or more of the measures below:

- 1- Refrain from holding prejudice to the victim and other persons established in Article 12 of the present law or instigatingthe same;
- 2- Refrain from holding prejudice to the continued presence of the victim and persons living with him/her and covered by the restraining order in the household;
- 3- Compel the offender to leave the house temporarily and for a period determined by the relevant authority when the victim is found to be in danger;
- 4- Move the victim and other cohabitants outside the house when they are believed to be in danger and subject to a threat that could be the result of a continued presence in the household and transfer them to a temporary safe and convenient residency.

When the victim moves out, children who are of a legal age shall move out with him/her along with any other at risk children or cohabitants.

The defendant shall pay the accommodation fees in advance according to his/her means.

- 5- Compel the defendant, with due consideration of his/her capacities, to pay in advance an amount of money adequate to cover the fees for food, cloth and education fees for dependantpersons. Compel the defendant as per his/her capacities to pay the fees necessary for medical treatment or the hospitalization of the victim and other persons established in Article 12 of the present law where violence resulted in the need for therapy.

- 6- Refrain from holding prejudice to any of the victim private assets or the persons included in the restraining order.
- 7- Refrain from holding prejudice to furniture, movable joint funds and prohibit any right to dispose thereof.
- 8- Enable the victim or whoever he/she might delegate when leaving the house to access the house and recover personal belongings against acknowledgment of receipt.
In any temporary settlement, the victim or the defendant may resort to competent jurisdiction to obtain a ruling adequate to the applicable rules.
The payment of alimony as decided by competent courts shall end the payment established in the restraining order.

Article 15:

Filing a restraining request does not prevent the victim or defendant from filing legal actions or pursuing the same before courts of all kinds and jurisdictions.

Article 16:

The restraining request shall be submitted without a lawyer. Legal fees and expenses shall not arise from the same.

Article 17:

The restraining order issued by the judge in chambers shall be automatically effective.
The restraining order issued by the criminal court shall be implemented by the appellate public prosecution.
The victim along with the parties benefiting from the restraining order and the defendant may request from the authority having issued the restraining order or from the relevant court to cancel the Order or amend the same upon discovering new facts.
The decision to cancel or amend shall be subject to the review mechanism established in Article 13 of the present law.

Article 18:

Whoever shall challenge the restraining order, shall be subject to imprisonment up to three months and shall be fined no less than double the minimum salary or shall be subject to one of these two sanctions.
Where the violation is accompanied by the use of violence, the offender shall be subject to imprisonment up to one year and shall be fined no more than four folds the minimum wage.
Where the offense recurs, the sentence shall be doubled.

Article 19:

Trial shall be held secretly before the competent authorities.

Concluding Provisions

Article 20:

In addition to the sanctions established as per the provisions of the present law, the tribunal shall compel the offender to take rehabilitation sessions on violence at specialized centers.

Article 21:

A special fund having moral personality and financial and administrative autonomy shall be established to assist the victims of family violence, provide them with care and the means necessary to limit the crimes of family violence, prevent the same and rehabilitate the perpetrators thereof.

The Fund shall be funded as follows:

- State contributions: a credit shall be established in the yearly budget of the Ministry of Social Affairs;
- Donations.

The Fund's structure shall be determined by Cabinet decree upon the suggestion of the Ministers of Justice and Social Affairs. The Fund shall be subject to the system on Public Institutions issued as per decree number 4517/1972. The Fund shall be under the supervision of the Minister of Social Affairs.

Article 22:

Except for the rules of jurisdiction of the Personal Status Courts and the provisions on Personal Status that remain solely applicable in their field of jurisdiction, and the provisions of law number 422 dated 6/6/2002 (**Protection of Juvenile Offenders at Risk Act**), any/all contrary provisions shall be hereby annulled.

Article 23:

The present law shall enter into force upon its publication in the Official Gazette.