



Concerning Prevention of domestic violence

Unofficial translation

Law of the Republic of Kazakhstan dated 04.12.2009 No. 214-IV.

U n o f f i c i a l t r a n s l a t i o n

See Article 26: Order of enforcement of the Law of the Republic of Kazakhstan

This Law determines legal, economical, social and organizational grounds of the state bodies' activity, self-governing authorities, organizations and citizens of the Republic of Kazakhstan concerning prevention of domestic violence.

Chapter 1. GENERAL PROVISIONS

Article 1. Basic terms used in this Law

The following basic terms are used herein:

1) victim shall mean an individual, concerning whom there is a basis to believe that he/she has been directly caused any moral, physical and (or) property damage;

1-1) aid organization shall mean legal entities performing assistance of special social services and (or) assistance to the victims in accordance with this Law;

2) family and domestic relations shall mean the relationship between persons having matrimonial relations, persons cohabiting within an individual house, apartment or any other accommodations, and between divorced spouses, immediate relatives, persons, having common child (children);

3) domestic violence shall mean any deliberate unlawful act (action or omission) of one person in the sphere of family and domestic relations with respect to the other (others) causing or threatening to cause any physical and (or) mental hurt;

4) prevention of domestic violence shall mean a complex of legal, economic, social, and organizational measures carried out by the subjects of prevention of domestic violence, and aimed to protection of the constitutional rights, liberties and legal interests of a person and citizen in the sphere of family and domestic relations, prevention and restraint of domestic violence, and to establishing and elimination of the reasons and conditions contributing to commitment thereof;

5) Subjects of domestic violence prevention shall mean state bodies, the bodies of local self-government, organizations and citizens of the Republic of Kazakhstan, performing the domestic violence prevention.

Footnote. Article 1 as amended by the Law of the Republic of Kazakhstan dated 18.02.2014 No. 175-V (shall be enacted ten calendar days after its first official publication).

Article 2. Legislation of the Republic of Kazakhstan on prevention of domestic violence

1. 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 regulatory legal acts of the Republic of Kazakhstan.

2. Shall any international treaty ratified by the Republic of Kazakhstan establish any other rules different from those contained herein, then the rules of the international treaty shall apply.

Article 3. Principles of prevention of domestic violence

Prevention of domestic violence shall be based on the following principles:

1) legality;

- 2) guaranteed observance of rights, liberties and legal interests of a person and citizen;
- 3) inadmissibility of causing any physical and (or) mental hurt to a person and citizen;
- 4) family support and preservation;
- 5) confidentiality;
- 6) individual approach to each person and citizen in a difficult life situation;
- 7) priority of preventive measures on domestic violence over the repressive ones;
- 8) complexity and consistency.

Article 4. Types of domestic violence

1. Domestic violence may be expressed in the form of physical, psychological, sexual and (or) economic violence.

2. Physical Violence shall mean deliberate bodily injury by acts of force and causing physical pain.

3. Psychological Violence shall mean deliberate psychoactivity with respect to a person, a basement of the honour and dignity by means of threatening, contempt, extortion, or coercion (canvassing) of wrong doing or acts of serious hazard to the life or health and resulting in disturbance of psychological, physical and personal development.

4. Sexual Violence shall mean any deliberate unlawful act encroaching upon sexual immunity or sexual freedom of a person, and any sexual actions with respect to juveniles.

5. Economic Violence shall mean deliberate deprivation of a person of housing, food, clothes, property, funds, to which he/she has a legal right, which may result in deterioration of physical and (or) mental health.

Footnote. Article 4 as amended by the Law of the Republic of Kazakhstan dated 18.02.2014 No. 175-V (shall be enacted ten calendar days after its first official publication)

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. ENTITIES OF DOMESTIC VIOLENCE PREVENTION

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

The Government of the Republic of Kazakhstan shall:

1) elaborate main directions of state policy in scope of prevention of domestic violence;

2) *is excluded by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124-V (shall be enacted ten calendar days after its first publication);*

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

Footnote. Article 6 as amended by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124-V (shall be enacted ten calendar days after its first official publication)

Article 7. Competence of the local representative and executive bodies

1. Local representative bodies shall:

1) *is excluded by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124-V (shall be enacted ten calendar days after its first official publication);*

2) confirm and control the fulfillment of local budgets in line of domestic violence prevention;

3) support implementation of regulations of this Law by citizens and organizations.

2. Local executive bodies shall:

1) *is excluded by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124-V (shall be enacted ten calendar days after its first official publication);*

2) ensure interaction between domestic violence prevention entities at the local level;

3) create organizations on rendering of assistance and provide their functioning;

4) detect and keep count of minors, injured by 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.

Footnote. Article 7 as amended by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124-V (shall be enacted ten calendar days after its first official publication)

Article 8. Commission for women and family population policy

Commission on women and family 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. Competence of commission for cases of minors and protection of their rights

Commission for cases of minors and protection of their rights shall:

1) interact with domestic violence prevention entities on issues of preventing domestic violence among minors;

2) *is excluded by the Law dated 03.07.2013 No. 124-V (shall be enacted ten calendar days after its first official publication);*

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.

Footnote. Article 9 as amended by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124-V (shall be enacted calendar days after its first official publication)

Article 10. Competence of the bodies of internal affairs

Bodies of internal affairs shall:

1) *is excluded by the Law dated 03.07.2013 No. 124-V (shall be enacted ten calendar days after its first official publication);*

2) participate in elaboration of projects of regulatory legal acts in scope of the domestic violence prevention;

3) carry out measures on prevention of domestic violence;

4) identify the parents or surrogate parents, who fail to fulfil or improperly fulfil their child-rearing responsibilities and performing any unlawful acts with respect to them;

5) keep preventive records and exercise preventive control;

6) consider application and reports on facts of domestic violence or on threat of their commitment visiting the place and take measures on their suppression;

7) direct the victims to the assistance or health organizations;

8) perform preventive talk;

9) deliver the person, who has committed the domestic violence, to the bodies of internal affairs;

10) issue a protection order;

11) apply before the procurator on giving sanctions on extension of the validity of restraining order;

12) perform administrative arrest;

13) apply to the court for establishment of specific requirements to the behaviour of the person, who has committed the domestic violence;

14) carry out criminal prosecution, proceedings on the cases on administrative infractions;

15) apply measures of the criminal-procedure compulsion;

16) apply criminal-legal Security Measures with respect to the victim;

17) ensure organization of special training courses related to prevention of domestic violence for the employees of the bodies of internal affairs;

18) *is excluded by the Law dated 13.01.2014 No. 159-V (shall be enacted ten calendar days after its first official publication);*

Footnote. Article 10 as amended by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124-V (shall be enacted ten calendar days after its first official publication); dated 13.01.2014 No. 159-V (shall be enacted ten calendar days after its first official publication); dated 18.02.2014 No. 175-V (shall be enacted ten calendar days after its first official publication).

Article 11. Competence of the Authorized Education Agency

Authorized Education Agency shall:

1) *is excluded by the Law dated 18.02.2014 No. 175-V (shall be enacted ten calendar days after its first official publication);*

2) ensure monitoring and analysis of the needs of students and pupils suffered from domestic violence for the special social services in accordance with the standards of provision of the special social services;

3) participate in elaboration of the statutory legal acts in the sphere of prevention of domestic violence;

4) develop and implement into the practice of operation of the educational organizations programmes and methods aimed to shaping of the law-abiding behaviour of students and pupils of the educational organizations.

Footnote. Article 11 as amended by the Law of the Republic of Kazakhstan dated 18.02.2014 No. 175-V (shall be enacted ten calendar days after its first official publication)

Article 12. Competence of the authorized body in the field of health and social development

The authorized body in the field of health and social development shall:

1) develop and implement into practice of health organizations guidelines for provision of medical and psychological assistance to victims;

2) participate in the development of draft of normative legal acts in the field of prevention of domestic violence;

3) develop measures for the use of active forms of employment promotion.

Footnote. Article 12 in the new wording of the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after the day its first official publication).

Article 13. Competence of health care organizations

Health care organizations:

1) provide addiction treatment, psychological, mental, preventive assistance and carry out medical rehabilitation of victims and perpetrators of domestic violence;

2) inform the bodies of internal affairs of the facts of applications of the victims and rendering of the medical assistance to them;

3) take measures on prevention of alcoholism, drug addiction, and substance abuse.

Article 14. Competence of the Authorized Agency for Social Protection of Population

Footnote. Article 14 is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after the day its first official publication).

Article 15. Assistance organizations

1. Assistance organizations shall:

1) receive victims;

2) organize provision of necessary physiological, pedagogical, medical, juridical assistance to the injured persons, direct them in organizations of health care for rendering of medical assistance and further rehabilitation if so required;

3) in accordance with possibilities provide temporary residence to injured persons;

3-1) render special social services to the victims, as well as apply in the local executive bodies of districts, cities of region significance with statement on provision of warrant and (or) additional extent of special social services, provided over warrant extent;

4) perform psychocorrective programmes with persons, committed domestic violence;

5) inform bodies of internal affairs on facts of domestic violence or on threats of their commitment;

6) perform the explanatory work on the rights with respect to prevention of domestic violence;

7) cooperate with individuals and legal entities with respect to prevention of domestic violence.

Assistance, provided by subparagraphs 1), 2), 3), 4) and 5) of part one of this paragraph shall be rendered to victims independently from place of residence.

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.

Footnote. Article 15 as amended by the Law of the Republic of Kazakhstan dated 18.02.2014 No. 175-V (shall be enacted ten calendar days after its first official publication)

Chapter 3. MEASURES ON PREVENTION OF DOMESTIC VIOLENCE

Article 16. Regulation of relations arising upon appliance of measures of prevention of domestic violence

Regulation of the relations arising upon application of measures on prevention of domestic violence shall be performed in accordance with the legislation of the Republic of Kazakhstan concerning law violation prevention subject to peculiarities established by this Chapter.

Article 17. Measures of individual prevention of domestic violence

1. The measures of individual prevention of domestic violence shall be applied for systematic purposeful influence on the legal conscience and behavior of person, committed domestic violence, in purpose of prevention of commitment new infractions on his (her) part and provision of victim's safety.

2. Measures of individual prevention of domestic violence are:

1) preventive talk;

2) delivering person committed domestic violence in the bodies of internal affairs for executing a minute on administrative infraction or pronouncement of restraining order;

3) restraining order;

4) administrative arrest;

5) compulsory measures of medical character;

6) establishment of special requirements to law breaker's behavior;

7) administrative sanctions;

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) measures taken under the sentence.

3. Measures of individual prevention of domestic violence shall be determined in recognition of individual particularities of person in respect of whom they applied, nature and degree of public danger of infractions committed by him (her).

4. The decision on appliance of measures of individual prevention may be appealed by interested persons in manner established by the legislation of the Republic of Kazakhstan.

Article 18. Grounds for appliance of measures of individual prevention of domestic violence

1. Grounds for taking measures of individual prevention of domestic violence shall be any of the following circumstances:

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

2) direct detection by the employee of the body of internal affairs of the fact of commitment of domestic violence or an attempt thereof;

3) materials received from the public and local authorities.

2. Applications and messages on commitment of domestic violence or on threat of its commitment shall be considered by the state bodies in manner established by the legislation of the Republic of Kazakhstan.

Article 19. Preventive talk

1. Basic tasks of preventive talk are detection of reasons and conditions of the commitment of domestic violence, explanation of social and legal consequences of the domestic violence and conviction in necessity of law abiding behavior.

2. The preventive interview shall be held by the subject of prevention of domestic violence with the person, who has committed the domestic violence or with respect to whom there are bases for taking the measures of individual prevention of domestic violence.

3. The preventive interview shall be held in the official premises of the subjects of prevention of domestic violence, and at the place of residence, study, work or immediately at the place of commitment of the domestic violence and cannot last longer than one hour.

4. Person with whom the preventive talk is performed shall be notified on necessity of determination of illegal actions.

5. Preventive talk with minor shall be performed in the presence of his (her) parents, teachers or other legal representatives.

Article 20. Restraining order

1. In order to ensure the safety of the victim and in the absence of grounds for the production of administrative detention in accordance with the procedure provided by the Code of the Republic of Kazakhstan on Administrative Offenses or detention in accordance with the procedure provided for in Article 128 of the Code of Criminal Procedure of the Republic of Kazakhstan, a protective order shall be issued taking into account the views of the victim, which shall be given to a person who committed domestic violence or has a threat of its commission for execution against receipt by the head of the local police service of internal affairs agencies or his deputy, a district police inspector or a district police inspector for juvenile affairs. In the case of refusal to sign, a note shall be made in the protective 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 protective order shall be issued with respect to a sane person, who has attained sixteen years.

3. The protective order shall prohibit the domestic violence, searching, pursuit, visiting, carrying on verbal or telephonic conversations and otherwise coming in contact with the victim against his/her will.

4. The protective order shall specify: time and place of issue thereof, by whom and to whom it is issued, place, time and circumstances of commitment or threat of domestic violence, prescribed limitations in relations with the victim, and legal consequences in the event unlawful actions and violation of the protective order.

5. The term of validity of the protective order shall be ten days from the time of serving thereof upon the person, with respect to whom it is issued.

4. On safety order shall be pointed:

time and place of its rendering, by whom, and in respect of whom, it rendered, place, time and instances of the commitment or threat of commitment of domestic violence, established limitations in relations with injured person, legal consequences in cases of continuation of illegal actions and infraction of safety order.

5. Validity of safety order is thirty days from the moment of its service to person, in respect of whom it rendered. Periodicity of checks is not less than one time at seven calendar days.

6. *is excluded by the Law dated 18.02.2014 No. 175-V (shall be enforced upon expiry of ten calendar days after its first official publication);*

7. Violation of the protective order shall entail the liability established by the Administrative Violations Code of the Republic of Kazakhstan.

8. The bodies of internal affairs shall keep a preventive file on the person, with respect to whom the protective order is issued, and perform the preventive control of him/her.

Footnote. Article 20 as amended by the Law of the Republic of Kazakhstan dated 18.02.2014 No. 175-V (shall be enacted ten calendar days after its first official publication); dated 05.07.2014 № 236-V (shall be enforced from 01.01.2015); dated 02.11.2015 № 388-V (shall be enforced from 01.01.2016).

Article 21. Administrative arrest

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. Order, term of administrative arrest, rights and obligations of persons are subject to the administrative arrest shall be determined by the Code of the Republic of Kazakhstan on administrative infractions.

Article 22. Establishment Specific Requirements to the Offender's Behaviour

1. A court may establish special requirements to behavior of a domestic violence perpetrator for the purpose of ensuring the security of the victim.

2. Fixing of specific requirements to the offender's behaviour is an administrative and legal treatment measure and shall be applied both along with the imposition of an administrative sanction and instead of such administrative sanction when the person committed an administrative offence is released from administrative responsibility.

3. The person to whom specific requirements have been fixed may be forbidden:

1) to search, chase, visit the victim, to carry on verbal or telephone conversations and otherwise come in contact with the victim;

2) to purchase, keep, bear and use fire arms and other types of weapons.

4. During the period of validity of the specific requirements to the offender's behaviour, the offender may be charged with the duty to appear to the internal affairs authorities one to four times a month for preventive interviews.

5. The procedure for determination of specific requirements to the offender's behaviour, period of validity thereof, rights and obligations of the parties to the proceeding on administrative offences are provided for by the Administrative Code of the Republic of Kazakhstan.

6. The authorities of internal affairs shall put the person to whom specific requirements have been fixed on the crime watch list and exercise preventive control over him.

Footnote. Article 22 as amended by the Law of the Republic of Kazakhstan dated 18.02.2014 No. 175-V (shall be enacted ten calendar days after its first official publication)

Article 23. Measures of Procedural Coercion and Safety Measures for Criminal Proceedings

1. In order to suppress domestic violence containing the composition of a criminal offense and ensure the safety of the victim, witness and other persons participating in criminal proceedings, members of their families and close relatives, procedural coercive measures and procedural security measures shall be used by the bodies conducting criminal prosecution and leading the criminal process.

2. The reasons for application of procedural coercion and security measures, the procedure for application thereof, the rights and obligations of the persons involved in the criminal procedure are provided for by the Code of Criminal Procedure of the Republic of Kazakhstan.

Footnote. Article 23 as amended by the Law of the Republic of Kazakhstan dated 03.07.2014 № 227-V (shall be enforced from 01.01.2015).

Chapter 4. FINAL PROVISIONS

Article 24. Supervision of compliance with the law in the field of preventing domestic violence

The highest supervision of compliance with the law in the field of preventing domestic violence shall be carried out by the prosecutor's bodies.

Footnote. Article 24 in the new wording of the Law of the Republic of Kazakhstan dated 11.07.2017 № 91-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication).

Article 25. Confidentiality in Rendering Assistance to Victims

The information about private and family lives of victims shall be confidential and may not be disclosed.

Disclosure of any confidential information by the person, who has become aware of the fact of domestic violence due to his/her official position, shall entail the liability provided for by the laws of the Republic of Kazakhstan.

Article 26. The Procedure for Putting this Law in Force

This Law shall be put in force on the expiry of ten calendar days after the first official publication thereof.

The President
of the Republic of Kazakhstan

N. Nazarbayev