



CHIEF BOLA AHMED TINUBU
Governor of Lagos State

LawNo.IS

Lagos State of Nigeria

2007

A LAW TO PROVIDE PROTECTION AGAINST DOMESTIC
VIOLENCE AND FOR CONNECTED PURPOSES

(18th May 2007) Commence-
ment.

THE LAGOS STATE HOUSE OF ASSEMBLY enacts as follows:

1. As from the commencement of this Law no person shall commit any act of domestic violence against any person .

Prohibition of
Domestic
Violence.

2.- (I) Any complainant may in the prescribed manner apply to the court for a protection order.

Application
for protection
Order.

(2) Where the complainant is not represented by a legal representative, the Registrar of the court shall inform the complainant of:

(a) the relief available in compliance with this Law; and

(b) the right to also lodge a criminal complaint against the respondent, if a criminal offence has been committed by the respondent.

(3) Notwithstanding the provisions of any other law, the application, may be brought on behalf of the complainant by any other person; including a counsellor, health service provider, member of the Nigeria Police Force, social worker, organization or teacher, who has an interest in the well being of the complainant: provided that the application shall be brought with the consent of the complainant, except in circumstances where the complainant is:

(a) a minor:

(b) mentally retarded;

(c) unconscious:

(d) incapable to consent for fear of refusal: or

(e) a person whom the court is satisfied unable to provide the required consent.

(4) The application referred to in Section 2 shall be brought to a judge in chambers where the complainant may suffer undue hardship if the application is not dealt with immediately.

(5) The application and affidavit shall be lodged with the Registrar of the court who shall within 72 hours submit the application and affidavit to the court.

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J. Any member of the Nigeria Police, health worker, etc. shall, at the scene of an incident of domestic violence or as soon as is reasonably possible, when the incident or domestic violence is reported-

- (i) render such assistance to the complainant as may be required in the circumstances, including assisting or making arrangements for the complainant to find a suitable shelter and to obtain medical treatment;
- (ii) shall issue a notice containing information as prescribed to the complainant in the language the complainant understands; and
- (iii) shall explain to the complainant the context of such notice in the prescribed manner, including the remedies at his or her disposal in compliance with this Law and the right to lodge a criminal complaint, if applicable.

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4.--(1) A Police Officer may without warrant arrest any respondent at the scene of an incident of domestic violence whom he or she reasonably suspects of having committed an offence containing an element of violence against a complainant.

(2) Any person arrested under subsection (1) shall not be detained beyond the time prescribed under the Constitution of the Federal Republic of Nigeria, 1999.

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5.--(1) The court shall, notwithstanding the fact that the respondent has not been given notice of the proceedings, issue an interim protection order against the respondent, in the prescribed manner where:

- (i) the respondent is committing or has committed an act of domestic violence;
- (ii) undue hardship may be suffered by the complainant as a result of domestic violence if a protection order is not issued immediately;
- (iii) an interim protection order should be granted to the respondent in the prescribed manner and shall call upon the respondent to show cause in the return date specified in the order why a protection order should not be issued.

(h) A copy of the application referred to shall be served on the respondent together with the interim protection order.

0) Where the court does not issue an interim protection order in terms of subsection (1) above, the court shall direct the Registrar of the court to cause the application and the supporting affidavits to be served on the respondent in the prescribed manner, together with a prescribed notice requiring the respondent to show cause on the return date specified in the notice why a protection order should not be issued.

(1) The return dates referred to in subsections (2)(a) and (3) above may not be less than 5 days after service has been effected upon the respondent; Provided that the return date referred to may be anticipated by the respondent who shall within 2 hours issue written notice to the complainant and the court.

(5) Upon service or receipt of an interim protection order, the Registrar of the court shall cause:

- (a) a certified copy of the interim protection order; and
- (b) the original warrant of arrest contemplated in Section 8(1)(a) to be served on the complainant.

6.--(1) Where the respondent fails to appear on a return date contemplated in Sections 5(2) and (3), and the court is satisfied that-

Issuing of protection Order

- (a) proper service has been effected on the respondent; and
- (b) the application contains prima facie evidence that the respondent has committed or is committing an act of domestic violence, the court shall issue a protection order in the prescribed form.

(2) When the respondent appears on the return date in order to oppose the issuance of a protection order, the court shall proceed to hear the matter and consider any additional evidence received and such further affidavits or oral evidence shall form part of the record of the proceedings.

(1) The court may on its own accord or on the request of the complainant order that in the examination of witnesses, including the complainant, a respondent who is not represented by legal representative-

- (11) is a person who is in a domestic relationship with the respondent; and
- (h) is put in such a witness by the court, and the court is satisfied that the respondent is not accurately representing the respondent.

(4) The court shall, after a hearing, as contemplated in subsection (2), issue a protection order in the prescribed form on a balance of probability, that the respondent has committed or is committing an act of domestic violence.

(5) Upon the issuance of a protection order, the Registrar of the court shall in the prescribed manner cause-

- (a) the original of such order to be served on the respondent ; and
- (b) a certified copy of such order, with the original copy of the warrant of arrest contemplated in Section 8(1)(a) to be served on the complainant.

(6) The Registrar of the court shall in the prescribed manner forward certified copies of any protection order and of the warrant of arrest contemplated in Section 8(1)(a) to the police station of the complainant's choice.

(7) Subject to the provisions of Section 5(D), a protection order issued in terms of this section remains in force until it is set aside, and the execution of such order shall not be automatically suspended upon the notice of appeal.

Court's
powers in
respect OF
Protection
Order.

7.--(1) The court, by means of a protection order referred to in Sections 5 and 6, prohibit the respondent from:

- (a) committing any act or any further act of domestic violence;
- (b) enlisting the help of another person to commit any of such act;
- (c) entering a residence shared by himself and the complainant(s):
Provided that the court may impose this application only if it appears to be in the best interest of the complainant;
- (d) entering a specific part of such a shared residence;
- (e) entering the complainant's residence; •
- (f) entering the complainant's place of work;
- (g) preventing the complainant who ordinarily lives or lived in a shared residence as contemplated in sub-paragraph (c) from entering or remaining in the shared residence or a specified part of the shared residence; or
- (h) committing any other act as specified in the protection order.

(1) The court may impose any additional conditions which it deemed reasonably necessary to protect and provide for the safety, health or well-being of the complainant, including an order:

- (a) to seize any arm or dangerous weapon in the possession or under the control of the respondent, as contemplated in Section 9; and
- (1) that a Police Officer must accompany the complainant to a specific place to assist with arrangements regarding the collection of personal property.
- (3) In ordering a prohibition contemplated in Section 7 subsection (1)(c), the court shall impose on the respondent obligations as to the discharge of rent or mortgage payments having regard to the financial needs and resources of the complainant and the respondent.
- (4) The court shall order the respondent to pay emergency monetary relief having regard to the financial needs and resources of the complainant and the respondent, and such order has the effect of a civil judgment of the relevant court.
- (5)(a) The physical address of the complainant shall be omitted from the protection order, unless the nature of the terms of the order necessitates the inclusion of such address.
- (b) The court shall issue directions to ensure that the complainant's physical address is not disclosed in any manner that may endanger the safety, health or well-being of the complainant.
- (6) If the court is satisfied that it is in the best interest of the child, it shall:
 - (a) refuse the respondent contact with such child;
 - (b) order contact with such child on such conditions as it shall consider appropriate; or
 - (c) make order as to custody of the child.
- (7)(a) The court may not refuse-
 - (i) to issue a protection order; or
 - (ii) to impose any condition or make any order which it is competent to impose or make under this section, merely on the grounds that other legal remedies are available to the complainant.
- (1) If the court is of the opinion that any provision of a protection order which deals with a matter that should, in the interest of justice, be dealt with further in compliance with any other relevant law, including the Matrimonial Causes Law of the relevant states, the court shall determine, in order to afford the party concerned the opportunity to seek appropriate relief in terms of such law.

(g)(a) The court shall, while issuing the protection order referred to in Sections 5 and 6, order that the respondent or the complainants as the case may be, or any other person as it shall deem fit, undergo compulsory period of counselling in respect of the matter for which the application was brought.

(h) The Chief Judge of the State shall, in exercising his powers under Section 16 of this Law, designate counseling centres in each Local Government of the State which shall consist but not limited to welfare officers, professional counsellors, civil servants, groups or any other relevant institution.

Warrant of
Arrest upon
Issuance of
interim
Protection
Order

8.-(1) Whenever a court issues a protection order, the court shall make an order:

- (a) authorizing the issuance of a warrant for the arrest of the respondent, in the prescribed form; and
- (b) suspending the execution of such warrant subject to compliance with any prohibition, obligation or order imposed in compliance with Section 7.

(2) The warrant referred to in subsection (1)(a) remains in force unless the protection order is set aside, or it is cancelled after execution.

(J) The registrar of the court shall issue the complainant with a second or further warrant of arrest, if the complainant files an affidavit in the prescribed form in which it is stated that such warrant is required for his or her protection and the existing warrant has *been-*

(a) executed and cancelled; or

(b) lost or destroyed.

(4)(a) A complainant may hand the warrant of arrest together with an affidavit in the prescribed form stating that the respondent has contravened any prohibition, condition, obligation or order contained in a protection order, to any member of the Nigeria Police Force.

(b) If it appears to the Police Officer concerned that, subject to subsection (5), there are reasonable grounds to suspect that the complainant may suffer imminent harm as a result of the illegal breach of the protection order by the respondent, the Police Officer shall arrest the respondent for allegedly committing the offence referred to in Section 5(a).

(c) If the police officer concerned is of the opinion that there are

insufficient grounds for arresting the respondent in compliance with paragraph (h), he or she shall serve a written notice on the respondent which shall—

(i) specify the name, the residential address and the occupation or status of the respondent;

(ii) call upon the respondent to appear before a court, on a date and at the time specified in the notice, on a charge of the offence referred to in Section 5(a); and

(iii) contain a certificate signed by the police officer concerned to the effect that he or she has served the original notice on the respondent and that he or she explained the content to the respondent.

(d) The Police Officer shall forward a copy of the notice referred to in paragraph (c) to the Registrar of the court concerned, and the mere production of such duplicate, original shall be prima facie proof that the original was served on the respondent.

(5) In considering whether or not the complainant may suffer imminent harm, as contemplated in subsection (4)(b), the member of the Nigeria Police Force shall take into account—

(a) the risk of the safety, health or well-being of the complainant;

(b) the seriousness of the conduct comprising an allegedly breach of the protection order; and

(c) the length of time of the alleged breach.

(6) Whenever a warrant of arrest is forwarded to the Nigeria Police Force in compliance with subsection (4)(a), a Police Officer shall inform the complainant of his or her right to lay a criminal charge against the respondent, where applicable, and explain to the complainant how to lay such a charge.

9.-(1) The court shall order a member of the Nigeria Police Force to seize any arm or dangerous weapon in the possession or under the control of a respondent, if the court is satisfied on the evidence placed before it, including any affidavits supporting an application referred to in Section 4(1), that—

Seizure of Arms and Dangerous Weapons.

(a) the respondent has threatened or expressed the intention to kill or injure him or herself or any person in a domestic relationship; or
 (b) the respondent has in his possession or control any dangerous weapon or

(b) possession of such arm or dangerous weapon is not in the best interest of the respondent or any other person in a domestic relationship, as a result of the respondent's-

(i) state of mind or mental condition;

(ii) inclination to violence; or

(iii) use of or dependence on intoxicating liquor or drugs.

(2) Any arm seized in terms of subsection (1) above must be handed over to the Nigeria Police Force as contemplated in the Police Act Cap 154 Laws of the Federal Republic of Nigeria 1990 and Firearms Act Cap. 69 Laws of the Federal Republic of Nigeria 1990.

(3) Any dangerous weapon seized in compliance with subsection (1) above-

(a) must be given a distinctive identification mark and retained in police custody for such period of time as the court shall determine; and

(b) shall only be returned to the respondent or, if the respondent is not the owner of the firearm or dangerous weapons, to the owner by order of the court and on such condition as the court shall determine:

Provided that -

If the court is satisfied that it is in the interest of the safety of any person concerned, or in the public interest the court shall order that the firearm or dangerous weapon be forfeited to the State.

Variation or
setting
aside of
Protection
Order.

10.-(1) A complainant or a respondent may, upon written notice to the other party and the court concerned, apply for the variation or setting aside of a protection order referred to in Section 6.

(2) If the court is satisfied that good cause has been shown for the variation or setting aside of the protection order, it shall issue an order to this effect: Provided that the court shall not grant such an application unless it is satisfied that the application is made freely and voluntarily;

(3) The Registrar of the court shall forward a notice as prescribed to the complainant and the respondent if the protection order is varied or set aside as contemplated in subsection (1) above.

PROVISION
OF
PROTECTION
ORDER

11.-(1) No person shall be present during any proceeding in compliance with this section -

(a) officers of the court;

- (b) the parties to the proceedings; or
- (c) any person bringing an application on behalf of complainant in compliance with Section 4(3), which may be:
 - (i) any legal representative of any party to the proceedings;
 - (ii) witnesses
 - (iii) not more than three persons for the purpose of providing support to the complainant; or
 - (iv) any other person whom the court permit to be present. Provided that the court shall, if it deems fit, exclude any person from attending any part of the proceedings; and
- (d) Nothing in this subsection shall prevent the court from hearing proceedings in camera, or excluding any person from attending such proceedings.

- (2)(a) No person shall publish any information which might directly or indirectly reveal the identity of any party to the proceedings;
- (b) the court shall direct that any information relating to proceedings held in compliance with the provisions of this Law shall not be published and
- (c) provisions of subsection (2)(b) shall not be applicable to publication of a bona fide Law, such report provided does not reveal the identity of parties and witness to the proceedings.

12.-(1) Any court within the State has jurisdiction to grant protection order if - Jurisdiction.

- (a) the complainant permanently or temporarily resides, carries on business or is employed
- (b) the respondent resides, carries on business or is employed; or
- (c) the cause of action arose in the State.

m No specific minimum period is required in relation to subsection (1)(a).

(3) A protection order shall be enforceable throughout the Federation irrespective of where the order was made.

(-1) The Chief Judge of the State shall create a special court, e.g. family court which shall have a counselling unit to which Section 7(8) may apply.

Service of
Documents.

13.- (1) Service of any document in compliance with the provisions of this Law shall be effected in the prescribed manner by the Registrar of the court, or as prescribed by the Sheriffs and Civil Processes Act Cap 189 Laws of the Federal Republic of Nigeria 1990, or as the court shall direct.

(2) The regulations contemplated in Section 17 shall make provisions for financial assistance by the State to a complainant or a respondent who does not have means to pay the fee for any service in compliance with this Law.

Appeal and
Review.

14. The provisions in respect of appeal and review in the Magistrates' Court Laws or High Court Laws of the State shall apply to any proceedings in compliance with this Law.

Offences.

15. -(a) Any person who contravenes any prohibition, condition, obligation or order imposed in Section 7, shall be guilty of an offence and liable on conviction to a fine of N100,000 or imprisonment for a period not exceeding five years or to both such fine and imprisonment;

(b) Any person who contravenes the provision of Section 11(2)(a) or 11(2)(b) shall be guilty of an offence and liable on conviction to a fine of N20,000 or imprisonment for a period not exceeding one year (1 year) or to both such fine and imprisonment;

(c) Any person who wilfully makes a false statement in an affidavit referred to in Sections 8(4) and (9)(a) shall be guilty of an offence and liable on conviction to a fine of N20,000 or imprisonment for a period not exceeding one year (1 year) or to both such fine and imprisonment.

Application
of Bill
by members
of the
Nigeria
Police Force.

16. No Police Officer shall-

(a) refuse to institute a prosecution; or

(b) withdraw a charge, in respect of contravention of Section 15(a), unless he or she has been authorized, whether in general or in any specific case, by the Attorney-General of the State as contemplated in Section 195 of the Constitution of the Federal Republic of Nigeria, 1999.

Regulations

17. The Chief Judge of the State shall make regulations regarding-

(1) the form required to be prescribed in this Law;

(2) any matter required to be prescribed in the rules of this Law; and

(c) any other matter, which he or she deems necessary or expedient to be prescribed in order to achieve the objects of this Law.

18.-(1) In this Law, unless the context indicates otherwise-

Interpretation.

(a) "Arm" means any arm or any armament as defined in Section (1)(1) of the Firearms Act Cap. 69 Laws of the Federation of Nigeria, 1990;

(b) "Child" means an infant or any person below 18 years;

(c) "Complainant" means any person who is or has been in a domestic relationship with a respondent and who is or has been subjected or allegedly subjected to an act of domestic violence, including any child in the care of the complainant;

(d) "Court" includes Magistrates or High Court of the State or any court that has criminal jurisdiction;

(e) "Damage to property" means the wilful damaging or destruction of property belonging to a complainant or in which the complainant has a vested interest, whether legal or equitable;

(f) "Domestic relationship" includes a relationship between complainant and a respondent in any of the following ways where:

(i) they are or married to each other, including marriage according to any law, custom or religion;

(ii) they live or lived together in a relationship in the nature of marriage, although they are not, or were not, married to each other, or are not able to be married to each other;

(iii) they are the parents of a child or are persons who have or had parental responsibility for a child (whether or not at the same time);

(iv) they are family members related by consanguinity, affinity or adoption;

(v) they are or were in an engagement, dating or customary relationship, including an actual or perceived romantic, intimate or sexual relationship of any duration; or

(vi) they share or recently shared the same residence, including household, domestic servants or staff, house keepers and licenses.

(g) "Domestic violence" means acts listed below against any person-

(i) physical abuse;

(ii) sexual abu exploitation including but r:ot limited to rape, incest and sexual assault;

(iii)starvation;

(i1•) emotional, verbal and psychological abuse;

(P) economic abuse and exploitation;

(Pi) denial of basic education;

(Pii) intimidation;

(l'iii) harassment;

(ix) stalking;

(x) hazardous attack including acid bath with offensive or poisonous substance;

(xi) damage to property;

(xii) entry into the complainant's .residence without consent where the parties do not share the same residence; or

(xiii) any other controlling or a•busive behaviour towards a complainant, where such conduct harms or may cause imminent harm to the safety, health or well being of the complainant;

(xi1•) deprivation.

(lt) "Economic abuse" includes:

(i) the unreasonable deprivation of economic or financial resources to which a complainant is entitled under the Law or which the complainant requires out of necessity, including household necessities for the complainant. and mortgage bond repayments or payment of rent in respect of the shared residence; or

(ii) the unreasonably disposal or seizure of household effects or other property in which the complainant has an interest including any equitable or lcg.d intcrc t:

(i) "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-

(i) loss of earnings:

(ii) medical expenses:

(iii) relocation and accommodation expenses: or

(iv) necessities.

(j) "Emotional, verbal and psychological abuse" means a pattern of degrading or humiliating conduct towards a complainant, including-

(i) repeated insults, ridicule or name calling as to cause emotional pain;

(ii) repeated threats to cause emotional pain; or

(iii) the repeated exhibition of obsessive possessiveness or jealousy, which constitute a serious invasion of the complainant's privacy, liberty, integrity or security;

(k) "Exploitation" connotes taking undue advantage of the complainant.

(l) "Harassment" means engaging in a pattern of conduct that induces the fear of harm to a complainant including-

(i) repeatedly watching, or loitering outside of or near the building or place where the complainant resides, works, carries on business, studies and place of recreation after studies.

(ii) Repeatedly making telephone calls or inducing another person to make telephone calls to the complainant, whether or not conversation ensues;

(iii) Repeatedly sending, delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic mail or other objects to the complainant:

(11) "Intimidation" means uttering or conveying a threat, or causing a complainant to receive a threat, which induces fear, anxiety;

(n) "Organization" means civil servant, groups, religious groups, or community organizations:

- (o) "Police Officer" or "member of the Nigeria Police Force" means any member as defined in Section 1 of the Police Act Cap 154, Laws of the Federal Republic of Nigeria 1990;
- (f1) "Physical abuse" means any act or threatened act of physical violence towards the person of the complainant;
- (q) "Physical address" means where the complainant(s) relocated to for safety;
- (r) "Prescribed" means prescribed in terms of a regulation made under Section 19;
- (s) "Protection order" means an order issued in terms of Section 5 or 6 but, in Section 6, excludes an interim protection order;
- (1) "Relevant state" means the state in which the complainant ordinarily resides or where the incident occurs;
- (11) "Respondent" means any person who is or has been in a domestic relationship with a complainant and who has committed or allegedly committed an act of domestic violence including any person who conspires, aids, facilitates or assists in the commission or alleged commission of domestic violence against the complainant;
- (,) "Sexual abuse" means any conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity, or dignity of the victim;
- (u') "Sheriff" means a sheriff appointed in terms of the Sheriff and Civil Processes Act Cap 189, Laws of the Federation of Nigeria 1990;
- (x) "Stalking" means repeatedly following, pursuing, or accosting the victim;
- (v) "Third party complainant" means any person, body of persons or organization that lodges complaint on behalf of or for the interest of the complainant;
- (:) "Violence" includes denial of right.

Chapter 19
Laws of the Federation of Nigeria
2007

19. This Law may be cited as the Protection Against Domestic Violence Law, 2007 and shall be read into force on the 1st day of May 2007

This printed impression has been compared by me with the Bill which has been passed by the Lagos State House of Assembly and found by me to be a true and correctly printed copy of the said Bill.

R. O. A. JAIYESIMI

Clerk of the House of Assembly
