

CROATIAN PARLIAMENT

1660

On the basis of Article 89 of the Constitution of the Republic of Croatia, I adopt

THE DECISION

ON THE PROCLAMATION OF THE LAW ON PROTECTION AGAINST FAMILY VIOLENCE

I am promulgating the Law on Protection from Domestic Violence, which was adopted by the Croatian Parliament at its session on July 7, 2017.

Class: 011-01/17-01/55

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Zagreb, July 13, 2017.

President
of the Republic of Croatia
Kolinda Grabar-Kitarović, VP

LAW

ON PROTECTION AGAINST FAMILY VIOLENCE

Chapter I. GENERAL PROVISIONS

Article 1.

This Law prescribes the rights of victims of domestic violence, the circle of persons to whom the Law applies, determines the forms of domestic violence, misdemeanor sanctions for protection against domestic violence, collection of data on the application of the Law, establishment of the Commission for monitoring and improving the work of criminal and misdemeanor procedure bodies and the execution of sanctions related to protection against domestic violence and misdemeanor provisions.

Article 2.

This Law transposes into the legal order of the Republic of Croatia Directive 2012/29/EU of the European Parliament and the Council of October 25, 2012 on the establishment of minimum standards for the rights, support and protection of victims of criminal offenses and on the replacement of the Council's Framework Decision 2001/220/PUP (OJ L 315, 14 November 2012).

Article 3.

The provisions of the law governing misdemeanors and criminal proceedings shall be applied in an appropriate manner, unless otherwise prescribed by this Law.

Article 4.

All bodies dealing with domestic violence are obliged to act urgently, and all procedures initiated under this Act are urgent.

Article 5.

(1) All bodies that act on the occasion of domestic violence are obliged to act with special consideration towards the victim of domestic violence and, when taking actions, take care of the rights of the victim in an appropriate manner.

(2) All bodies dealing with domestic violence are obliged to treat child victims of domestic violence with special consideration, taking into account their age, personality and personal and family circumstances in order to avoid harmful consequences for the upbringing and development of the child. When dealing with a child victim of domestic violence, the competent authorities will primarily be guided by the best interests of the child.

(3) Bodies that act on the occasion of domestic violence are obliged to respect the dignity of a person with a disability and an elderly person as a victim of violence, and to respect the peculiarities arising from their disability or age.

Article 6.

(1) A victim of domestic violence has the following rights:

1. the right to access services to support victims of domestic violence
2. the right to effective psychological and other professional help and support from a body, organization or institution to help victims of domestic violence
3. the right to protection from intimidation and retaliation
4. the right to protection of dignity during the examination of the victim as a witness
5. the right to be accompanied by a trusted person when undertaking all actions in which he participates
6. the right to be informed, at her request, without undue delay, of the abolition of detention or the escape of the defendant, as well as the invalidation of the decision on the imposition of protective measures and the abolition of precautionary measures that were determined for her protection, or the release of the convict from serving his prison sentence
7. the right to confidentiality of data, the disclosure of which could endanger its safety or the safety of persons referred to in Article 8, paragraphs 1 and 2 of this Act, and the right to demand the exclusion of the public in court proceedings
8. the right to a representative in the proceedings
9. the right, at one's own request, to be informed about the actions taken regarding the application and the outcome of the procedure
10. the right to be questioned without undue delay after submitting the report, the right to demand that she be questioned in court proceedings and the right to conduct further investigations only to the extent that this is necessary for the purposes of misdemeanor proceedings
11. the right to be questioned by the police by a person of the same sex
12. the right to avoid contact with the offender before and during the procedure, unless the misdemeanor procedure requires such contact
13. the right to temporary accommodation in an appropriate institution in accordance with a special law
14. the right to police protection and insurance, by order of the court, for the purpose of unhindered taking of personal belongings when leaving the joint household
15. other rights prescribed by the law regulating the criminal procedure, except for those rights that by the nature of the matter can only be enjoyed by the victim of a criminal act.

(2) The bodies that act on the occasion of domestic violence are obliged to inform the victim in a manner understandable to him about all the rights he has in accordance with the provisions of this Act and the law governing criminal proceedings, already when taking the first action in which the victim participates.

(3) The bodies referred to in paragraph 2 of this article are obliged to make sure that the victim has understood the given notice of rights.

(4) In the case where it is necessary to examine a child victim of domestic violence, the authorities referred to in paragraph 2 of this article are obliged to examine the child victim by applying the provisions of the law regulating criminal proceedings on special methods of examining children.

(5) If a child is a victim of domestic violence, and the interests of the child conflict with the interests of the parents, the competent authority will call the competent social welfare authority to appoint a special guardian. A special guardian is authorized to make all statements and take all actions that the victim is authorized to do. Exceptionally, a child victim of domestic violence who has reached the age of 16 can independently make statements and take actions in the proceedings.

(6) If the victim of domestic violence is a child, the notifications from paragraph 1, points 6 and 9 of this article are given ex officio.

Article 7.

(1) Health care workers, workers in social welfare institutions, persons employed in educational institutions, professional workers employed in religious institutions, humanitarian organizations or civil society organizations and all other professional persons who in their work come into contact with victims of domestic violence are obliged to report to the police or the state attorney's office any domestic violence that they learn about in the course of their work.

(2) The bodies acting on the occasion of domestic violence are obliged to inform the competent center for social welfare without delay about the facts and circumstances that contributed to or favored the perpetration of domestic violence, in order to take measures within the competence of the center for social welfare.

Article 8.

(1) The persons to whom this Act applies are: spouse, common-law partner, life partner, informal life partner, their common children and children of each of them, blood relatives in the direct line, relatives in the collateral line up to the third degree inclusive, relatives by in-laws in marital and cohabiting unions up to the inclusive second degree, adoptive parents and adopted children.

(2) The provisions of this Act also apply to a former spouse, former common-law partner, former life partner, former informal life partner, persons who have a child together, and persons living in a joint household.

(3) Persons with disabilities and elderly persons referred to in paragraphs 1 and 2 of this article as victims of domestic violence enjoy special protection under this Act.

(4) A common-law partner is a person who lives in a common-law relationship that has a more permanent character or that lasts for a shorter period of time if a common child was born to them.

(5) In the sense of this Act, an informal life partner is a person living in a same-sex union that has a more permanent character.

(6) A child is a person who has not reached the age of eighteen.

(7) A victim of domestic violence is a person who, due to the commission of domestic violence, suffers physical or psychological consequences, property damage or a significant violation of fundamental rights and freedoms.

(8) A trusted person is a legal representative or other adult person chosen by the victim of domestic violence, unless proposed or called as a witness.

(9) A person with a disability is a person who has long-term physical, mental, intellectual or sensory impairments that, in interaction with various obstacles, may prevent their full and effective participation in society on an equal basis with others.

(10) An elderly person is a person aged 65 and over.

Article 9.

Terms used in this Law, which have a gender meaning, are used neutrally and refer equally to men and women.

Article 10.

Domestic violence is:

1. physical violence
2. corporal punishment or other forms of humiliating treatment of children
3. psychological violence that caused a violation of the victim's dignity or distress
4. sexual harassment
5. economic violence as prohibition or impossibility of using joint or personal property, disposal of personal income or property acquired through personal work or inheritance, impossibility of employment, denial of funds for maintaining a joint household and for childcare
6. neglecting the needs of a person with a disability or an elderly person, which leads to his distress or insults his dignity and thus causes him physical or mental suffering.

Chapter II.

CRIMINAL SANCTIONS

Types and purpose of misdemeanor sanctions for protection against domestic violence

Article 11.

(1) Misdemeanor sanctions for protection against domestic violence are protective measures, fines, imprisonment and other misdemeanor sanctions prescribed by the law governing misdemeanors.

(2) The purpose of misdemeanor sanctions is to protect family members exposed to violence, to respect the legal system, and to prevent the re-offending of domestic violence by appropriately sanctioning the offender.

Protective measures

Article 12.

(1) The purpose of protective measures is to prevent domestic violence, to ensure the protection of the health and safety of the victim of domestic violence, and to eliminate circumstances that favor or stimulate the commission of a new offense, and are imposed to eliminate the threat of a victim of domestic violence.

(2) Protective measures may be imposed independently and without the imposition of a fine or other misdemeanor sanction.

(3) Protective measures may be imposed ex officio, at the proposal of the authorized prosecutor, the victim or the center for social welfare.

(4) At the proposal of the victim or another authorized prosecutor, the court may, even before the expiration of the time for which the protective measure was imposed, review the justification of the further course of the imposed protective measure and, if necessary, may replace the imposed protective measure with another or cancel it.

Types of protective measures

Article 13.

The court can impose the following protective measures on the perpetrator of domestic violence, in addition to the protective measures prescribed by the Criminal Code:

1. mandatory psychosocial treatment
2. bans on approaching, harassing or stalking a victim of domestic violence
3. removal from the joint household
4. mandatory addiction treatment.

Article 14.

(1) Protective measures from Article 13, points 2 and 3 of this Act may be imposed by the court before the initiation of misdemeanor proceedings at the proposal of the victim or another authorized prosecutor if there is a direct danger to the safety of the victim or members of her family or joint household.

(2) The court will make the decision from paragraph 1 of this article without delay, and no later than within twenty-four hours from the submission of the proposal. The court will make a decision after hearing the victim and the person against whom a protective measure is requested. The appeal does not delay the execution of the decision.

(3) The court shall without delay deliver the decision from paragraph 1 of this article to the competent police station for the purpose of implementing the imposed protective measure.

(4) The court will annul the decision from paragraph 1 of this article if the victim or other authorized prosecutor does not submit a motion for indictment within eight days from the date of the decision, which he is obliged to warn the victim about. The court will notify the police without delay about the termination of the protective measure.

Mandatory psychosocial treatment

Article 15.

(1) A protective measure of mandatory psychosocial treatment may be imposed on a perpetrator of domestic violence in order to eliminate his violent behavior or if there is a danger that he could repeat domestic violence.

(2) The measure referred to in paragraph 1 of this article can be determined for a duration of at least six months.

(3) The minister responsible for judicial affairs shall prescribe the manner and place of implementation of the measure referred to in paragraph 1 of this article by ordinance.

Prohibition of approaching, harassing or stalking the victim

Article 16.

(1) A protective measure prohibiting approaching, harassing or stalking the victim may be imposed on the perpetrator of domestic violence if there is a danger that the perpetrator could repeat domestic violence against that person.

(2) In the decision by which the court imposes the measure referred to in paragraph 1 of this article, the places or areas and the distance below which the perpetrator may not approach the victim of domestic violence, i.e. the harassment or stalking of the victim, shall be determined.

- (3) The measure referred to in paragraph 1 of this article cannot be shorter than one month or longer than two years.
- (4) The court shall deliver the decision by which the court imposes the measure referred to in paragraph 1 of this Article to the competent police station without delay for the purpose of monitoring the implementation of the imposed protective measure.
- (5) The minister responsible for internal affairs shall prescribe the manner of implementation of the measure referred to in paragraph 1 of this article by ordinance.

Removal from the joint household

Article 17

- (1) A protective measure of removal from a joint household may be imposed on a perpetrator of domestic violence who has committed violence against a family member with whom he lives in an apartment, house or other residential space that forms a joint household if there is a risk that he could repeat domestic violence.
- (2) The measure referred to in paragraph 1 of this article cannot be shorter than one month or longer than two years.
- (3) The court shall deliver the decision by which the court imposes the measure referred to in paragraph 1 of this Article to the competent police station without delay for the purpose of monitoring the implementation of the imposed protective measure.
- (4) The minister responsible for internal affairs shall prescribe the manner of implementation of the measure referred to in paragraph 1 of this article by ordinance.

Compulsory addiction treatment

Article 18.

- (1) A protective measure of mandatory addiction treatment may be imposed on a perpetrator of domestic violence who committed the violence under the influence of alcohol, drug or other addiction if there is a danger that he will repeat domestic violence due to this addiction.
- (2) The measure referred to in paragraph 1 of this article is determined for a duration that cannot exceed one year.
- (3) The minister responsible for health affairs will prescribe the manner of implementing the measure from paragraph 1 of this article by ordinance.

Proceeding according to protective measures

Article 19

- (1) The perpetrator of domestic violence is obliged to act in accordance with the imposed protective measure.
- (2) Persons referred to in Article 7, paragraph 1 of this Act who, in the course of their work, find out that the perpetrator of domestic violence is not acting in accordance with the imposed protective measure, are obliged to inform the police about this.

Chapter III.

DATA COLLECTION

Article 20.

- (1) The Ministry responsible for judicial affairs, the ministry responsible for social welfare affairs, the ministry responsible for internal affairs, the ministry responsible for health affairs and the ministry responsible for education are obliged to collect data on the application of this Act and, based on the collected data, compile annual reports from their scope and submit them to the Commission from Article 21 of this Act by the end of March of the current year for the previous year.
- (2) The minister responsible for judicial affairs shall prescribe the manner of collection, processing and delivery of statistical data and reports compiled on the basis of the collected data.

Chapter IV.

COMMISSION FOR MONITORING AND IMPROVING THE WORK OF CRIMINAL AND OFFENDED PROCEDURE BODIES AND THE EXECUTION OF SANCTIONS RELATED TO PROTECTION AGAINST FAMILY VIOLENCE

Article 21

(1) The commission for monitoring and improving the work of criminal and misdemeanor procedure bodies and the execution of sanctions related to protection against domestic violence (hereinafter: the Commission) is established under the ministry responsible for judicial affairs.

(2) The commission has 11 members who are elected from the ranks of judges, state attorneys, lawyers, civil servants of the Ministry of Internal Affairs, civil servants of the Ministry of Justice, civil servants of the Ministry of Social Welfare, civil servants of the Ministry of Health, civil servants of the Ministry of Education and representatives of civil society.

(3) The commission collects the reports of the competent authorities, in accordance with Article 20, paragraph 1 of this Act, considers the submitted reports and monitors the situation based on them. Based on the collected reports and other necessary data, the Commission prepares an annual report on the application of this Act.

(4) The Commission submits an annual report to the ministry responsible for judicial affairs and then publishes it on the website of the ministry responsible for judicial affairs by the end of June of the current year for the previous year.

(5) The president and members of the Commission are appointed by decision of the minister responsible for judicial affairs for a period of four years.

(6) The minister responsible for judicial affairs shall adopt the rules of procedure for the work of the Commission.

(7) Coordination of the Commission's work and administrative tasks for the Commission are performed by the ministry responsible for judicial affairs.

Chapter V. OFFENSE PROVISIONS

Article 22.

(1) Anyone who commits violence from Article 10 of this Act shall be punished for the misdemeanor by a fine in the amount of at least HRK 1,000.00 or imprisonment for up to 90 days.

(2) Anyone who repeats the violence referred to in paragraph 1 of this article shall be punished for the misdemeanor by a fine in the amount of at least HRK 5,000.00 or a prison sentence of at least 15 days.

(3) Whoever commits violence from Article 10 of this Act in the presence of a child or a person with a disability or an elderly person will be punished for the misdemeanor by a fine in the amount of at least HRK 6,000.00 or a prison sentence of at least 30 days.

(4) Whoever repeats domestic violence from paragraph 3 of this article will be punished for the misdemeanor by a fine in the amount of at least HRK 7,000.00 or a prison sentence of at least 45 days.

(5) If the violence referred to in paragraph 1 of this article is committed to the detriment of a child or a person with a disability or an elderly person, the perpetrator shall be punished for the misdemeanor by a fine in the amount of at least HRK 10,000.00 or a prison sentence of at least 45 days.

(6) Whoever repeats domestic violence from paragraph 5 of this article will be punished for the misdemeanor by a fine in the amount of at least HRK 15,000.00 or a prison sentence of at least 60 days.

Article 23.

Persons referred to in Article 7, paragraph 1 of this Act who do not report to the police or the state attorney's office the commission of domestic violence that they learned about in the course of their work, will be fined in the amount of at least HRK 1,000.00 to HRK 10,000.00.

Article 24

The perpetrator of domestic violence who does not act in accordance with the imposed protective measure will be punished for the offense with a fine in the amount of at least HRK 3,000.00 or a prison sentence of at least ten days.

Article 25

Administrative supervision over the implementation of this Act is carried out by the ministry responsible for judicial affairs.

Chapter VI. TRANSITIONAL AND FINAL PROVISIONS

Article 26

Proceedings initiated before the entry into force of this Act will be completed according to the provisions of this Act.

Article 27

(1) The minister responsible for judicial affairs shall issue regulations from Article 15, paragraph 3 and Article 20, paragraph 2 of this Act within 30 days from the date of entry into force of this Act.

(2) Within 30 days from the date of entry into force of this Act, the minister responsible for internal affairs shall issue regulations from Article 16, paragraph 5 and Article 17, paragraph 4 of this Act.

(3) The minister responsible for health affairs shall issue a regulation from Article 18, paragraph 3 of this Act within 30 days from the date of entry into force of this Act.

(4) The minister responsible for judicial affairs will appoint the Commission and adopt the rules of procedure from Article 21, paragraph 6 of this Act within 30 days from the date of entry into force of this Act.

Article 28

The Commission for Monitoring and Improving the Work of Criminal and Misdemeanor Procedure Bodies and the Execution of Sanctions Related to Protection from Domestic Violence, established based on the provisions of the Law on Protection from Domestic Violence (Official Gazette, No. 137/09, 14/20 and 60/10), continues its work until the Commission is established in accordance with the provisions of this Law.

Article 29

Until the implementation regulations from Article 27, paragraphs 1, 2 and 3 of this Law come into force, the implementation regulations adopted on the basis of the Act on Protection from Domestic Violence (Official Gazette, No. 116/03) and the Act on Protection from Domestic Violence (Official Gazette, Nos. 137/09, 14/10 and 60/10):

- Rulebook on the method and place of conducting psychosocial treatment ("Narodne novine", no. 29/05 and 78/06)
- Rulebook on the method of implementation of protective measures that were placed under the jurisdiction of the police by the Act on protection against domestic violence ("Narodne novine", no. 27/04.)
- Ordinance on the content of mandatory records and reports, the method of collection, processing and storage of statistical data from the area of application of the Act on Protection from Domestic Violence ("Narodne novine", No. 105/11.).

Article 30.

With the entry into force of this Act, the Act on Protection from Domestic Violence (Official Gazette, no. 137/09, 14/10 and 60/10) ceases to be valid.

Article 31

This Act will be published in the "Narodne novine", and will enter into force on January 1, 2018.

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Zagreb, July 7, 2017.

CROATIAN PARLIAMENT

President
of the Croatian Parliament
Gordan Jandroković, vr