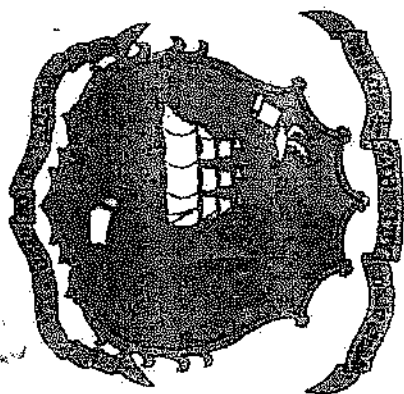


THE

DOMESTIC VIOLENCE ACT OF 2019



REPUBLIC OF LIBERIA



THE DOMESTIC VIOLENCE ACT OF 2019

APPROVED: AUGUST 13, 2019

PUBLISHED BY AUTHORITY
MINISTRY OF FOREIGN AFFAIRS
MONROVIA, LIBERIA

PUBLISHED: AUGUST 27, 2019

ATTESTATION TO:

"THE DOMESTIC VIOLENCE ACT OF 2019"

VICE PRESIDENT OF THE REPUBLIC OF LIBERIA/
PRESIDENT OF THE SENATE

Joseph N. Taylor

SECRETARY, LIBERIAN SENATE

[Signature]

SPEAKER, HOUSE OF REPRESENTATIVES, R.L.

[Signature]

CHIEF CLERK, HOUSE OF REPRESENTATIVES, R.L.

Misses Anderson



THE HONORABLE HOUSE OF REPRESENTATIVES
General Assembly
P.O. Box 1000
Monrovia, Liberia
West African Legislative Union

Office of the Chief Clerk 2019

RECEIVED IN THE OFFICE OF THE CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES
ON FEBRUARY 11, 2019

APPROVED AND FORWARDED: FEBRUARY 11, 2019

RECORDED TO THE CLERK OF THE SENATE OF LIBERIA FOR EXECUTIVE APPROVAL

APPROVED BY THE

SECRETARY OF THE HOUSE OF REPRESENTATIVES

[Signature]

THE DOMESTIC VIOLENCE ACT OF 2019

WHEREAS, there is a high incidence of domestic violence within the Liberian society;

WHEREAS, survivors/victims of domestic violence are among the most vulnerable members of society;

WHEREAS, domestic violence takes on many forms, acts which may be committed in a wide range of domestic and other relationships, and remedies currently available to the survivors/victims of domestic violence have proven ineffective;

WHEREAS, domestic violence is a serious social evil and a crime against the individual and society, which should not be excused or tolerated;

WHEREAS, domestic violence can be perpetrated against women, men or children, occurring within the family and within interpersonal relationships;

WHEREAS, having regard to the Constitution of the Republic of Liberia, and the right to equality and to freedom and security of the person, and the international commitments and obligations of Liberia towards ending violence in particular against women and children, including obligations under the United Nations Conventions on the Elimination of all Forms of Discrimination Against Women and the Rights of the Child; and

WHEREAS, pursuant to the National Gender Policy 2009 adopted by the Government of the Republic of Liberia, it is the policy of the Government to promote enactment and implementation of laws against domestic violence, create a wide range of remedies to discourage domestic violence and programs including raising public awareness and public education on the subject, expand the ability of law enforcement officers to assist survivors/victims and to enforce the law effectively in cases of domestic violence, train judges, prosecutors and traditional leaders to be aware of the issues relating to survivors/victims in cases of domestic violence, provide for and train counselors to support survivors/victims of domestic violence and to rehabilitate perpetrators of domestic violence, and establish Domestic Violence Task Force Chaired by the Ministry of Gender, Children and Social Protection, Co-chaired by Ministry of Justice (MOJ), Multi-Agency/Organization Domestic Violence Drafting Subcommittee Chaired by Codification Department MOJ, Co-chaired by the Law Reform Commission; comprehensive support services including survivors/victims of abuse and their families;

WHEREAS, to provide protection, and relief of survivors/victims of domestic violence; to provide punishment and/or rehabilitation for perpetrators of domestic violence and to provide for the procedure and guidelines to be followed in relation to the protection and compensation of victims/survivors of domestic violence;

NOW THEREFORE, it is enacted by the Senate and House of Representatives of the Republic of Liberia in Legislature Assembled:

SECTION 1.

Title 26, Penal Law, Chapter 16, Offenses Against the Family, Liberian Code of Laws Revised, is hereby amended to add Subchapter A, Domestic Violence to read as follows:

Chapter 16. Offenses Against the Family, Subchapter A. Domestic Violence.

Purpose of the Act

1. The purpose of the act is to:

- (a) Recognize domestic violence as a serious crime against the individual and society which, takes on many forms, including physical abuse, sexual abuse, neglect and exploitation.
- (b) Facilitate accessibility of remedies under the Act in order to provide immediate and effective assistance and protection for victims/survivors
- (c) Recognize that the legal system has ineffectively dealt with family violence in the past, allowing abusers to escape effective prosecution or financial liability, and has not adequately acknowledged the criminal nature of domestic violence; that, although many laws have changed, in practice there is still widespread failure to appropriately protect and assist victims
- (d) Support the efforts of victims/survivors of domestic violence to avoid further abuse by promptly entering and diligently enforcing court orders which prohibit abuse and, when necessary, reduce the abuser's access to the victim and address any related issues of child custody and economic support, so that victims are not trapped in abusive situations by fear of retaliation, loss of a child, financial dependence, or loss of home.
- (e) Clarify the responsibilities and support the efforts of law enforcement officers to provide immediate, effective assistance and protection for victims of domestic violence.

§16.20. Definitions

For the purposes of this Subchapter,

1. "child" means:

- (a) a person under the age of eighteen (18);
- (b) a child of both parties to a married;

- (c) a child whether or not a child of either party to a marriage, who is or has been living in the household as a member of the family;
- (d) a child of a man and a woman who, although not married to each other, are living or have lived together in the same household;
- (e) a child whether or not a child of the man and woman referred to in paragraph (d) or either of them:
- (i) who is or has been a member of their household; or
 - (ii) who resides in that household on a regular basis; or
 - (iii) is a child of whom either the man or woman is a guardian;
 - (iv) who does not reside in the same household but on a regular basis visits his/her parent/guardians.
2. "Parentage" when used in imposing a fine or penalty, means the Liberian father or his equivalent.
3. "Deadly weapon" means any firearm or other weapon, device, instrument, material or substance, whether antique or modern, which in the manner used or intended to be used, is known to be capable of producing death or serious bodily injury as defined in Section 1.7 of the Penal Law.
4. "Domestic relationship" means a family relationship, or a relationship in a domestic situation that exists or has existed between a man and a woman, complainant and a defendant, and includes a relationship where the complainant:
- (a) has or has been married to the defendant including a marriage in accordance with any law, custom or religion;
 - (b) lives with the defendant in a relationship in the nature of a marriage notwithstanding that they are not, were not married to each other or could not or cannot be married to each other;
 - (c) is engaged to the defendant, counting the defendant as a boyfriend or girlfriend living apart or together, or in an actual romantic, intimate or cordial relationship not necessarily including a sexual relationship with the defendant;
 - (d) and the defendant are parents of a child, are expecting a child together or are foster parents or adoptive parents to a child;
 - (e) and defendant contributed genes for artificial insemination, *in vitro* fertilization or similar fertilization techniques, but have no other relationship;
5. (l) and the defendant are family members related by consanguinity, affinity or adoption, or would be so related if they are married either customarily or under any law which is consistent with Liberian Domestic Relations Law, or were able to be married, or if they were living together as spouses although they are not married;
- (m) and the defendant share or shared the same residence or are co-tenants, or is or was financially dependent on the other;
- (n) is a parent, an elderly blood relative, or is an elderly person who is by law a relative of the defendant;
- (o) is a house-help whether or not living in the household of the defendant;
- (p) lives in or attends a public or private care institution including schools and is under the care and control of the defendant;
- (k) is in a relationship determined by the court to be a domestic relationship.
- "Domestic violence" means in general, any act of violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, men, or children, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life between parties in an existing or former domestic relationship. The forms of domestic violence include, but are not limited to:
- (a) "physical abuse" which means any act or threatened act of physical violence to a person, physical violence being any behavior that violates a person's bodily integrity or health; and
- (b) "emotional, verbal and psychological abuse" meaning a pattern or one time occurrence of degrading or humiliating conduct towards a person including any behavior that causes emotional damage and reduction of self-esteem; or that harms and disturbs full development; or that aims at degrading or controlling a person's actions, behavior, beliefs and decisions, by means of reduction of self-esteem, threat, embarrassment, humiliation, manipulation, isolation, constant surveillance, constant pursuit, insult, intimidations, blackmail, ridiculing, exploitation and limitation of the rights to come and go, repeated exhibition of obsessive possessiveness or destructive jealousy, which is such as to constitute a serious invasion of a person's privacy, liberty, integrity or security; or any other acts that cause damage to the person's psychological health and self-determination; or any series of acts which collectively cause a person to fear for his or her safety and life.
- (c) "economic abuse" which means the unreasonable deprivation of economic or financial resources to which a spouse is entitled under the law, including household necessities for a spouse including food, payment of rent in respect of shared residence, destroying or damaging household or property owned by a spouse within a domestic relationship or personal belongings, payment of school fees in case of a minor.

- (d) Any action or behavior of domestic violence as defined in this Act committed in the presence of a minor member of the family, and which is likely considered as an abuse against the minor member or any form of injury as defined herein.
- 6. "Destructive jealousy" means harboring a jealous emotion that leads to rage and physical harm or attempted physical harm against another person.
- 7. "Dowry" under the Inheritance Rights Law of Liberia, is a gift of money or property given by a man to a family for a present or future bride.
- 8. "Dowry-related violence" is defined as harassment or any act of violence or harassment associated with giving or receiving of dowry at any time before, during or after the marriage.
- 9. "Family relationship" means related or connected by blood, marriage or adoption.
- 10. "Genderian" means a person who has custody or control of a child whether by operation of law or tradition.
- 11. "Harassment" means engaging in a pattern of conduct that induces the fear of harm to a person including:
 - (i) repeatedly watching or following outside or near the building or place where a person resides, works, carries on business, or studies;
 - (ii) repeatedly or being the subject of or following another person to make telephone calls to a person whether or not conversation ensues with the intent to cause physical harm to that person; and
 - (iii) repeatedly using the internet or other electronic means to make unwanted or malicious communication to a person whether or not conversation ensues.
- 12. "Intimidation" means uttering or conveying a threat, or causing a person to receive a threat, which induces fear.
- 13. "Marriage" means all marriages according to the Domestic Relations Law of Liberia, custom, or religion.
- 14. "Perpetrator" means a person who is alleged to have committed an act of domestic violence or threats as an act of domestic violence.
- 15. "Relative" in relation to a person, means:
 - (a) the father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, grandparent, grandfather, grandmother or granddaughter of that person or of that person's spouse or former spouse, or

- (b) the brother, sister, uncle, aunt, niece or nephew (whether of the full blood or of the half blood or by affinity) of that person, or of that person's spouse or former spouse, and includes, in relation to a person who is living or has lived with another person as husband and wife, any person who would fall within paragraph (a) or (b) if the parties were married to each other.
 - 14. "Serious bodily injury" means bodily injury which creates a substantial risk of death or which causes permanent disfigurement, unconsciousness, extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ as defined in Section 1.7 of the Penal Law.
 - 17. "Sexual abuse" means any conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity of the person, including any act or threatened act of sexual violence comprising any behavior that constitutes sexual assault under Sub Section 14.77 of the Penal Law, irrespective of the nature of the relationship between the defendant and the survivor/victim, such as forcing a person to witness, maintain or participate in unwanted sexual intercourse by means of intimidation, threat, coercion or the use of force that causes the person to commercialize or to use, in any way, his or her sexuality; or that forces a person to attempt to become pregnant, to have an abortion or to engage in prostitution through coercion, blackmail, bribe, manipulation, intimidation or other illegal means, and confining or detaining a person against their will.
 - 18. "Stalking" means criminal activity consistent of repeatedly following, pursuing, or accosting a person.
 - 19. "Survivor/victim" means a person who comes with a bad situation or affliction and who gets through, or a person who manages to live through a situation that often causes death.
- §16.21. Offense**
- A person in a domestic relationship who engages in an act or omission which amounts to Domestic Violence as defined by this Act, commits an offense of domestic violence and shall be guilty of the crime of domestic violence. The mens rea and/or actus reus of domestic violence shall constitute the following within a domestic relationship if:
- (a) there are threats to commit or committing acts of physical or sexual violence;
 - (b) there are patterns causing emotional, verbal, or psychological abuse, as certified by a psychologist, psychiatrist, or behavioral specialist licensed to practice in the Republic of Liberia, after examination of the victim/survivor;
 - (c) there are threats to commit or committing acts constituting economic abuse;
 - (d) the person is deliberately prevented from engaging in any legitimate profession, occupation, business or activity.

(e) The person is deprived of the right to the use and enjoyment of conjugal property or property owned in common;

(f) there are threats to deprive or depriving a person of a legal right;

(g) causing or attempting to cause a person to engage in any sexual activity which does not constitute rape by force, threat or intimidation;

(h) attempting to unlawfully restrict or restricting a person's freedom of movement or conduct;

(i) stalking or repeatedly following, pursuing, or accessing a person;

(j) harassment;

(k) dowry-related violence;

(l) all other controlling or abusive behavior towards a person, where the conduct harms, or may cause imminent harm to the safety, health or wellbeing of the person in a domestic relationship.

§16.23. Punishment of acts amounting to violation

A single act herein may amount to domestic violence against a person or a number of acts that form a pattern of behavior may amount to domestic violence.

§16.23. Grading

1. The offense of Domestic Violence shall constitute a felony of the second degree where one or more of the following aggravating circumstances are present:

(a) The defendant inflicted bodily injury on the survivor/victim;

(b) The defendant used or brandished a deadly weapon; or

(c) The defendant has a prior conviction under this section.

2. Except as provided in subsection 1 hereof, the offense of domestic violence shall constitute a misdemeanor of the first degree.

§16.24. Punishment, Rehabilitation, Fines and Consent

1. Punishment

(a) A person in a domestic relationship who engages in domestic violence commits a misdemeanor of the first degree and is liable on conviction of a fine as provided for under Section 50.9(c) of the Penal Law and or imprisonment not exceeding 6 months.

(b) The court may in addition to imposing a fine or imprisonment, order the defendant to pay compensation to the survivor/victim of an amount determined by the court.

2. Rehabilitation and Fines

Where a defendant has been convicted of domestic violence, the court may:

(a) require that the defendant attend a domestic violence counseling or rehabilitation program;

(b) impose a fine pursuant to section 50.9 of the Penal Law of which twenty-five (25) percent shall go to the Domestic Violence Survivor/Victim's Fund; or

(c) order compensation as provided in the Penal Law.

§16.25. Defense Procedure

Being under the influence of alcohol, any illegal drug, or any other mind-altering substance shall not be a defense under this Act.

The consent of the survivor/victim shall not be a defense to a charge of domestic violence under this Act.

§16.26. Criminal charges and protection

The institution of a criminal charge arising from acts of domestic violence shall be in addition to and shall not affect the rights of a complainant to seek a Protective Order or other civil remedies.

§16.27. Duties of a Practitioner (School Authorities and/or Medical Practitioner)

1. A practitioner who reasonably suspects that a person under his/her care is a survivor/victim of domestic violence shall assist the survivor/victim in the following manner:

(a) Offer medical assistance to the survivor/victim;

(b) Inform the police immediately;

(c) Accurately document the medical visits of the survivor/victim;

(d) Inform the survivor/victim of the option available within the judicial system;

(e) Make himself or herself available to testify in court regarding the case where necessary;

(f) Offer procedural and any assistance as may be necessary to ensure the wellbeing of the survivor/victim, the survivor/victim's representative and other witnesses.

- (g) Record the statement of the survivor/victim or the survivor/victim's representation on the nature of the domestic violence;
- (h) Where a survivor/victim or survivor/victim's representative desires, the statement on the nature of domestic violence shall be taken by a police officer of the same sex as that of the survivor/victim. However, if an officer of the same sex is not available any assigned officer at the time may take the statement in the interest of preserving evidence.
2. The Ministry of Gender, Children and Social Protection shall create the following victim remedies:
- (a) Temporary shelters for the housing and care of victims/survivors;
- (b) Psychological and behavioral counseling and rehabilitation for victims/survivors;
- (c) Pro bono legal services for victims/survivors.
3. Upon application as per the court shall cause to issue a restraining order if a victim/survivor feels threatened by his or her abuser and the order may include:
- (a) *No Contact Provision*: Prohibiting the abuser from calling, texting, emailing, stalking, attacking, hitting, or disturbing the victim.
- (b) *Physical Custody Provision*: Prohibiting the abuser to repeatedly communicate with the victim for heated reasons, including care and transfer for visitation of their child.
- (c) *Stay-Away Provision*: Ordering the abuser to stay at least a certain number of yards or feet away from the victim, his or her home, job, school.
- (d) *Move-Or-Protect Provision*: Requiring, where applicable, the abuser to move out of a home shared with the victim, whether or not the home is owned or leased by the victim.
- §16.28. Duties of Police officers**
- In the event the complaint is carried to a police officer/police station, the officer/station shall do the following:
- (a) Assist the survivor/victim including giving assistance or advice in obtaining shelter and or medical assistance;
- (b) Record the medical reference;
- (c) Where signs of physical or sexual abuse are evident, ensure that the survivor/victim undergoes a medical examination and receives medical treatment;

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- (d) Advise the survivor/victim of the right to apply for relief under this Act and options available within the judicial system.

§16.29. Civic Education Required

The Ministry of Gender, Children and Social Protection shall implement or cause to be implemented a civic education program on examples of the act or kinds of acts which are prohibited under this Act.

§16.30. Mandatory Reporting

Health care providers, school authorities, and social workers who have reasonable cause to believe that a victim/survivor (during a professional interaction) has experienced domestic violence has a duty to report to law enforcement his or her belief that the injury or death of a victim will occur or she had a professional interaction is related to domestic violence.

§16.31. Miscellaneous provision

The Minister of Gender, Children and Social Protection or designate shall work with the relevant authorities and branches of government to develop appropriate tracing or training modules for those actors responsible to implement this Act and issue regulations to further interpret and implement this Act not inconsistent herein.

SECTION 2.

This Act shall take effect immediately upon publication in handbills.

ANY LAW TO THE CONTRARY NOTWITHSTANDING

SECOND SESSION OF THE FIFTY-FOURTH LEGISLATURE OF THE REPUBLIC OF LIBERIA

HOUSE'S ENGROSSED BILL NO. 32 ENTITLED:

"THE DOMESTIC VIOLENCE ACT OF 2019"

On motion, Bill read. On motion, the Bill was adopted on its first reading and sent to Committee Room on Thursday, May 2, 2019 @ 13:58 G.M.T.

On motion, Bill read. On motion, the Bill was taken back to Committee Room for its Second reading on Tuesday, July 2, 2019 @ 15:30 G.M.T.

On motion, the Bill was taken from Committee Room for its third and final reading, and the Bill was adopted, passed into the full force of the law, and ordered engrossed today, Thursday, July 4, 2019 @ 15:13 G.M.T.

CHIEF CLERK HOUSE OF REPRESENTATIVES, R.L.

MARCO M. STANLEY

SECOND SESSION OF THE FIFTY-FOURTH LEGISLATURE OF THE REPUBLIC OF LIBERIA

SENATE'S ENDORSEMENT TO HOUSE'S ENGROSSED BILL NO. 32 ENTITLED:

"THE DOMESTIC VIOLENCE ACT OF 2019"

On Motion, Bill read. On motion, the Bill was adopted on its first reading and sent to Committee room on Tuesday, July 16, 2019 at the hour of 12:42 G.M.T.

On Motion, Bill taken from the Committee Room for its second reading. On motion, under the suspension of the rule the second reading of the Bill constituted its third and final reading and the Bill was adopted, passed into the full force of the Law and ordered engrossed today, Thursday, July 18, 2019 at the hour of 14:31 G.M.T.

SECRETARY, LIBERIAN SENATE, R.L.

[Signature]