

## DOMESTIC VIOLENCE ACT, 2007 (ACT 732)

AN ACT to provide protection from domestic violence particularly for women and children and for connected purposes.

Part 1- Domestic Violence

Part 2- Protective Orders

Part 3- Miscellaneous Provisions

### *Part 1- Domestic Violence*

- 1) Domestic violence refers to any of the underlisted acts done within the context of a domestic relationship.
  - Acts which constitute a threat or a harm to a person under the Criminal Offences Act, 1960 (Act 29)
  - Acts, threats of or acts that are likely to cause physical abuse including assault, forcible detention, deprivation of access to food, water, shelter, rest; sexual abuse including knowingly putting another at risk of contracting any sexually transmitted disease (STD) without that person knowing; economic abuse being the deprivation or threat thereof of economic or financial resources to which a person is entitled.
  - Harassment
  - Behaviour that harms or may harm another person; endangers the safety, health or well-being of another; undermines another person's privacy, integrity or security
- 2) Domestic relationship means a family relationship or one that is similar to a family relationship or a relationship in a domestic situation that has existed or exists including where parties:
  - may have been married or are married;
  - live together as a couple even if they are not married;
  - are engaged or courting even if not living together;
  - may be expecting a child together or are foster parents;
  - are family members or would be;
  - are living in a household or
  - are considered by a court to be a domestic relationship.
- 3) Domestic violence is prohibited by law and is punishable as an offence by a fine of GHS6,000 or a term of not more than 2 years or both. An offender may also be required to pay compensation to a victim.
- 4) Domestic violence is not justified by consent.
- 5) Domestic violence does not have to be repeated to constitute an offence.
- 6) A series of seemingly trivial or minor acts may constitute domestic violence if the acts form a pattern of behaviour amounting to domestic violence.

- 7) Domestic violence may be filed as a complaint with the police by the victim, a family member, a social worker, a probation officer or healthcare provider where the intervention is in the interest of the victim.
- 8) Where the victim of domestic violence has died, a representative of the family or any person competent to represent the victim may file a complaint.
- 9) The police on receiving a complaint, are duty bound to provide protection for the victim of domestic violence, assist the victim to obtain medical treatment where necessary and assist the victim to a place of safety.
- 10) Medical treatment accessed through assistance by the police is free. Police assistance includes issuing a medical form or sending a victim to a medical facility where needed.

### *Part 2 - Protection Orders*

- 1) A district court, circuit court or High Court may hear and determine a case of domestic violence.
- 2) A protection order may be filed against an alleged perpetrator or a person reasonably suspected to intend to carry out domestic violence or any person related to such person.
- 3) An application for protection order is made without giving notice to the person against whom the complaint is made or the person required to answer to the allegation (i.e. the respondent)
- 4) A court can issue a protection order on its own initiative during criminal proceedings relating to domestic violence.
- 5) Court proceedings or hearings will be held in private with only the parties concerned in the matter. Even so, if the court is of the view that an applicant or victim or witness may be adversely affected by the presence of the alleged perpetrator of a domestic violence or the respondent, the court may separate the parties during its hearing of the case.
- 6) Applications for protection orders will normally be heard within 14 days of filing of the application. Before the hearing, the court in its discretion may issue an interim protection order.
- 7) Protection orders include prohibition from;
  - Physical assault
  - Forcing a person to engage in sexual contact
  - Deprivation or threat of deprivation of a person of economic or financial entitlements
  - Contact with a person by phone, physically or any form of communication
  - Destruction or damage of property
  - Harassment
  - Emotional, verbal or psychological abuse
- 8) Protection orders may also;
  - Bind a person to be of good behaviour
  - Direct a person to seek counselling or rehabilitation
  - Direct a person to vacate a place of residence but continue to pay rent and maintain an applicant

- Direct a person to pay the medical expenses of a victim
- 9) Temporary custody of a child caught in a domestic violence situation may be determined by the court
- 10) An occupation order may be issued by the court. This requires a person to vacate the matrimonial or other home and it does not matter that the beneficiary of the order is not the owner or the one who pays rent for the house or is not party to the lease.
- 11) Contravention of a court order is an offence attracting up to 2years imprisonment.

*Part 3 - Miscellaneous Provisions*

- 1) The courts may allow a domestic violence matter before it to be settled out of court if the violence complained against is not one considered to be aggravated and for which the punishment is not more than 2years imprisonment, on the application of or with the consent of the complainant.
- 2) It is an offence to publish any proceedings under the Domestic Violence Act without the permission of the court unless the publication relates to criminal proceedings and if so, the publication must protect the identity of the victim.
- 3) The Domestic Violence Act establishes the Victims of Domestic Violence Support Fund.