

REPUBLIC



OF CYPRUS

119(I) of 2000

212(I) of 2004.

**THE VIOLENCE IN THE FAMILY
(PREVENTION AND PROTECTION OF VICTIMS)
LAWS 2000 AND 2004**

(English translation and consolidation)

Office of the Law Commissioner

Nicosia,

1st March, 2005

ΓΕΝ (Α) – L.75

NICOSIA

PRINTED AT THE PRINTING OFFICE OF THE REPUBLIC OF CYPRUS

Price:

CONTENTS

	Page
Introduction	3
Arrangement of sections	4
The Violence in the Family (Prevention and Protection of Victims) Laws 2000 and 2004 (Consolidation in English).....	7

INTRODUCTION

This is a translation into English and consolidation of the Violence in the Family (Prevention and Protection of Victims) Law, 2000 (L. 119(I)/2000), incorporating the amendments made by law enacted up to 1st March, 2005, i.e. Law 212(I)/2004.

It is not a consolidation in the true sense of the word, in that no renumbering of sections has been made.

Office of the Law Commissioner

Nicosia,

1st March, 2005

**A LAW TO PROVIDE FOR THE PREVENTION
OF VIOLENCE IN THE FAMILY AND PROTECTION
OF VICTIMS**

119(I) of 2000
212(I) of 2004.

ARRANGEMENT OF SECTIONS
PART I – Introductory provisions

Section

1. Short title.
2. Interpretation.

PART II - Meaning of violence

3. Meaning of violence and fields of its application.
4. Aggravated violence.
5. Rape of wife by husband.

PART III
**Family Counselors, Advisory Committees
and Multidisciplinary Groups**

6. Appointment of Family Counselor.
7. Advisory Committee.
8. Multidisciplinary Group.

PART IV - Statements of witnesses and victims

9. Taking of a statement.

10. Video recorded statements.
11. Rules for the taking of a video-recorded statement.
12. Power of the Court not to allow the presentation of part of the statement.
13. Examination-in-chief with the leave of the Court.
14. Immediate complaint admissible as evidence.

PART V - Trial of cases and evidence

15. Speedy trial.
16. Corroboration.
17. Testimony of a psychiatrist or psychologist.
18. Prevention of intimidation.
19. Control of cross-examination.
20. Compellability of spouses.

PART VI - Orders and treatment of an accused

21. Court order for the removal of a minor.
22. Interim order restraining the suspect or removing the victim.
23. Restraining Order.
24. Supplementary provisions relating to section 23.
25. Probation order or suspension of imprisonment on special conditions.

PART VII - Fund

- 26. Establishment of Fund.
- 27. Administration of Fund.
- 28. Investments.
- 29. Regulations.
- 30. Auditing.

PART VIII - Shelter and Offences

- 31. Establishment and operation of a shelter.
- 32. Harassment of a victim and other person.
- 33. Application of the provisions of section 15.
- 34. Prohibition of the disclosure of the identity of the victim.
- 35. Prohibition of delivery, receipt or publication of copies of statements to or from third parties.
- 35A. Omission of a citizen to report cases of violence.

PART IX - Miscellaneous

- 36. Budgets.
- 37. Annual Report.
- 38. Regulations.
- 39. Rules of Court.
- 40. Repeal.

A LAW TO PROVIDE FOR THE PREVENTION OF VIOLENCE IN THE FAMILY AND PROTECTION OF VICTIMS

119(I) of 2000
212(I) of 2004.

PART I – Introductory provisions

The House of Representatives enacts as follows:

1. This Law may be cited as the Violence in the Family (Prevention and Protection of Victims) Laws 2000 and 2004. Short title.

2. In this Law unless the context otherwise requires:— Interpretation.

“Committee” means the Advisory Committee, constituted under section 7 of this Law;

“competent person” for the purposes of section 10 of this Law means any police officer, family counselor or welfare officer;

“Court” means a competent Court exercising criminal jurisdiction; 2(a) of 212(I)/2004.

“declaration” includes any account of facts made either in words or in any other form;

“Family Counselor” means the Family Counselor appointed under section 6 of this Law;

“marital home” means the place where the victim of violence has his usual residence, irrespective of whom of the spouses or other tenants such place belongs to or irrespective of the ownership percentages;

“member of the family” means- 2(b)(i) of 212(I)/2004

(a) husband and wife who-

- (i) have been legally married, whether the marriage exists or not, or
 - (ii) are or were cohabiting as husband and wife;
- (b) the parents of the persons referred to in paragraph (a);
- (c) children of the persons referred to in paragraph (a), irrespective of whether such children are the natural or adopted children of either or both of the said persons, as well as the grandchildren of the persons referred to in paragraph (a);
- (d) any person residing with any of the above mentioned persons. 2(b)(ii) of 212(I)/2004.

“Minister” means the Minister of Labour and Social Insurance;

“minor” means a person under the age of eighteen;

“Psychiatrist” means a doctor registered under the Medical Registration Law, recognised as a specialist in psychiatry pursuant the Medical Registration (Special Qualifications) Regulations;

Cap. 250.
 30 of 1959
 30 of 1961
 53 of 1961
 79 of 1968
 114 of 1968
 14 of 1974
 18 of 1979
 72 of 1991
 112(I) of 1996
 102(I) of 2004.
 Official
 Gazette,
 Supplement III (I):
 11.4.1986
 3.3.1988
 27.7.1990
 17.4.1991
 27.5.1994
 2.5.2003
 30.4.2004.

“Psychologist” means a professional psychologist registered under the Registration of Professional Psychologists Law;

68(I) of 1995
 104 (I) of 1996
 17(I) of 1999
 234(I) of 2004.

“self-control treatment” means the treatment mentioned in section 25 of this Law;

“statement” includes an interview;

“typing” includes printing in any form;

“video recording” means the recording by the use of any means in moving pictures of objects, facts, organizations or persons either in a moving or speaking form which can be reproduced and presented by the use of any technical means;

“violence” means the violence as defined in section 3 of this Law.

PART II – Meaning of Violence

3.-(1) For the purposes of this Law, violence means any act, omission or behaviour which causes physical, sexual or mental injury to any member of the family by another member of the family and includes violence used for the purpose of having sexual intercourse without the consent of the victim as well as of restricting its freedom.

(2) Notwithstanding the meaning of the term “violence” pursuant to subsection (1) above, the offences referred to in sections 4(2) and 5 of this Law as well as the offence referred to in section 147 of the Criminal Code shall fall within the said meaning.

Meaning of violence
and fields of its
application.
3 of 212(I)/2004.

Cap. 154.
3 of 1962
43 of 1963
41 of 1964
69 of 1964
70 of 1965
5 of 1967
58 of 1967
44 of 1972
92 of 1972
29 of 1973
59 of 1974
3 of 1975
13 of 1979
10 of 1981
46 of 1982
86 of 1983
186 of 1986
111 of 1989
236 of 1991
6(I) of 1994
3(I) of 1996
99(I) of 1996
36(I) of 1997
40(I) of 1998
45(I) of 1998
15(I) of 1999
37(I) of 1999
38(I) of 1999
129(I) of 1999

30(I) of 2000
 43(I) of 2000
 77(I) of 2000
 162(I) of 2000
 169(I) of 2000
 181(I) of 2000
 27(I) of 2001
 12(I) of 2002
 85(I) of 2002
 144(I) of 2002
 145(I) of 2002
 25(I) of 2003
 48(I) of 2003
 84(I) of 2003
 164(I) of 2003
 124(I) of 2004.

(3) Any act or behaviour constituting violence, pursuant to subsections (1) and (2) of this section or an offence, pursuant to sections 174, 175 and 177 of the Criminal Code, when committed in the presence of a minor member of the family, shall be considered as violence used against the said minor if it may cause to him/her mental injury. The said act or behaviour shall constitute an offence punishable under subsection (4) of this section.

(4) Any person using violence pursuant to subsection (1) shall commit an offence under this Law, punishable, except for the case of common assault which is punishable with imprisonment for two years and in the case where a more severe punishment is provided under any other or this Law, with imprisonment up to five years or with a fine up to three thousand pounds or with both such penalties.

4.-(1) Where the offences set out in the first column of subsection (2) below are committed by one member of the family against another member of the family, they shall be considered, for the purposes of this Law, as particularly serious and the Court, where the charge is based on the sections of the Criminal Code set out in the second column of subsection (2), may impose the increased penalties set out in the third column of the same subsection in lieu of the penalties provided in the aforesaid sections of the Criminal Code.

Aggravated
 violence.

(2) The offences to which subsection (1) refers are the following:—

<u>Offences</u>	<u>Section</u>	<u>Penalty</u>
(a) Indecent assault on females	151	The imprisonment is increased from two to five years.
(b) Indecent assault on males	152	The imprisonment is increased from two to five years.
(c) Defilement of girls under thirteen years of age.	153(1)	Life imprisonment (the penalty remains the same).
(d) Attempt to defilement of girls under thirteen years of age.	153(2)	The imprisonment is increased from three to seven years.
(e) Defilement of girls between thirteen and sixteen years of age.	154	The imprisonment is increased from two to ten years.
(f) Defilement of idiots or imbeciles.	155	The imprisonment is increased from two to twelve years.
(g) Unnatural offences.	171	The imprisonment is increased from five to ten years.

<u>Offences</u>	<u>Section</u>	<u>Penalty</u>
(h) Unnatural offence with violence.	172	The imprisonment is increased from fourteen years to life imprisonment.
(i) Attempts	173 (2)	The imprisonment is increased from seven to ten years.
(j) Grievous harm.	231	The imprisonment is increased from seven to ten years or the fine provided is imposed or both of the said penalties are imposed.
(k) Wounding and similar acts.	234	The imprisonment is increased from three to five years.
(l) Common assault	242	The imprisonment is increased from one to two years or the fine provided is imposed or both of the said penalties are imposed.

5. Notwithstanding the provisions of any law, the offences of rape under sections 144 and 145 of the Criminal Code, and of the attempt to commit rape, under section 146 of the same Code, may be considered as having being committed by a husband against his wife, if, on the facts of the case, the said offences would have been constituted, in the case where the perpetrator and the victim were not married, and shall be punishable in accordance with the provisions of the Criminal Code.

Rape of wife by husband.

PART III

Family Counselors, Advisory Committees and Multidisciplinary Groups

6.-(1) The Minister shall appoint appropriate persons to carry out the duties of Family Counselors for the better implementation of the provisions of this Law.

Appointment of Family Counselor.

(2) The Family Counselor shall exercise the following functions:

- (a) To receive complaints relating to a likelihood of exercise of violence and carry out the necessary investigations;
- (b) to counsel, advise and mediate for the easing of any problems in the family that are likely to, or may lead to the use of violence;
- (c) to make arrangements for immediate medical examination of the complainant and if he deems it necessary to accompany him/her;
- (d) to make a complaint to the Police for the investigation of the possibility of the commission of a criminal offence;

4(a) of 212(I)/2004.

- (e) to carry out, upon directions by the Court, investigations in relation to the financial state of the family in general and of the perpetrator in particular, in cases where a restraining order is contemplated;
- (f) to carry out investigations and make arrangements for the accommodation of the accused or of his family in case a restraining order is made;
- (g) to proceed promptly to all necessary arrangements for the medical or other examination of a child for whom there is a reasonable suspicion of ill-treatment by a member of the family;
- (h) any other function which the Minister may assign to him.

4(b) of 212(I)/2004.

(3) The Family Counselor, in the exercise of his duties may request the assistance of any State officer, of the Police or of any other appropriate person.

(4) The Family Counselor, in the exercise of the functions referred to in paragraph (a) of subsection (2) of this section, shall act, upon the written approval of the Director of Social Welfare Services, in accordance with the provisions of section 5(1) of the Criminal Procedure Law and shall apply to the same extent and in the same manner the provisions of subsections (2), (3) and (4) of the same section.

Cap. 155.
 93 of 1972
 2 of 1975
 12 of 1975
 41 of 1978
 162 of 1989
 142 of 1991
 9 of 1992
 10(I) of 1996
 89(I) of 1997
 54(I) of 1998
 96(I) of 1998
 14(I) of 2001
 185(I) of 2003
 219(I) of 2004.

(5) In the case of information or a complaint for the commission of the offence of violence against a minor, the Family Counselor may, if he deems it appropriate depending on the seriousness of the information or complaint, request the views, advice and opinion of the multidisciplinary group established under section 8 of this Law for the better handling of the case and inform the Director of the Social Welfare Services about the incident.

(6) The Family Counselor shall exercise the powers conferred upon him by paragraph (g) of subsection (2) of this section after he has attained the consent of the person having the parental care of the said minor and shall thereafter report the case to the police. The consent of the person having the parental care of the minor shall not be required where the Family Counselor is of the opinion that there is a reasonable suspicion that the minor has been ill-treated by the person having the parental care or by another member of the family, provided that the Attorney-General of the Republic is informed in writing about the incident prior to the medical examination of the minor or if this is possible immediately after the examination at the first given opportunity and under no circumstances not later than three days after the examination. 4(c) of 212(I)/2004.

(7) (a) The Director of Social Welfare Services may exercise the powers conferred upon him by section 4 and other relevant sections of the Children Law or any other law substituting the same, in cases where the reasons for the exercise of the powers conferred upon the Family Counselor by paragraph (g) of subsection (2) of this section exist. Cap. 352.
83(I) of 1999
143(I) of 2002.

(b) The Director of the Social Welfare Services may, if the Family Counselor is unable or refuses to exercise the functions mentioned in subsection (4) above or if he considers appropriate weighting the seriousness of the case, act pursuant to the above subsection himself instead of the Family Counselor, exercise such functions himself or delegate the same to another experienced officer of his Department.

7.-(1) There shall be established an Advisory Committee for the prevention and combating of violence in the family. Advisory Committee.

In particular the Committee shall-

- (a) Monitor the problem of violence in the family in Cyprus;
- (b) inform and enlighten the public and professionals using various means, including special conferences, educational programmes and seminars;
- (c) promote scientific research in relation to the violence in the family;
- (d) promote the services for dealing with all aspects of violence in the family;
- (e) monitor the effectiveness of the related services in operation and the application of and compliance with, the relevant legislation.

(2) The Committee shall consist of persons appointed in their personal capacity by the Council of Ministers and have knowledge of and experience on the matter. The appointments shall be from the public and private sector. The members shall not exceed eleven and their term of office shall be five years.

5(a) of 212(I)/2004.

The persons appointed from the public sector shall be selected from the Ministries and services mentioned in subsection (4) of this section and the persons appointed from the private sector shall be selected from the members of the associations or organizations involved in the prevention and combating of violence in the family, in equal proportion.

(3) A member of the Committee shall be appointed by the Council of Ministers as president and shall have responsibility for convening and chairing meetings and another member shall be appointed to substitute for the president in case of absence.

(4) The Ministries and services mentioned in subsection (2) of this section are -

- The Ministry of Health;
- The Ministry of Justice and Public Order;
- The Ministry of Education and Culture (Educational Psychologist);
- The Social Welfare Services of the Ministry of Labour and Social Insurance;
- The Law Office of the Republic;
- The Police.

(5) The Committee may engage scientific or other necessary staff and have an Office. 5(b) of 212(I)/2004.

(6) The Committee shall regulate its own procedure with internal regulations.

8.—(1) The Council of Ministers may, by notification published in the Official Gazette of the Republic, appoint multidisciplinary group or groups comprising persons having the necessary qualifications and experience for giving advice, views, opinions and any kind of assistance, regarding the better treatment of minors or other persons victims of violence.

Multidisciplinary group.

(2) The members of the multidisciplinary group shall be nominated from a list of persons prepared and submitted to the Council of Ministers by the Minister:

Provided that, the members of the group which deals with issues relating to minor persons victims of violence must possess the following specializations:

- Child psychologist;
- Paediatrician;
- Clinical Psychologist;
- Social Worker of the Ministry of Labour and Social Insurance, responsible for matters relating to children:

6 of 212(I)/2004.

Provided further that, the Minister shall have the right to include in the group any person possessing such other qualifications as the Minister may deem necessary.

(3) The Council of Ministers may include, in the notification by which the multidisciplinary group is appointed or in a subsequent notification, regulations for the better functioning of the group.

PART IV – Statements of witnesses and victims

9. In case of a complaint, the statement of the victim shall be taken by a police officer of the same sex, unless otherwise required by the victim or the family counselor when the victim is a minor.

Taking of a
statement.
7 of 212(I)/2004.

10.-(1) Subject to the provisions of subsection (2) of this section, at the trial of offences of violence under the provisions of this or any other law, a video recorded statement given to a competent person by any person who is a victim of violence or a witness to the commission of an offence in contravention of the provisions of this Law, may, with the leave of the court, be submitted as evidence.

Video recorded
statements.

(2) For the application of the provisions of subsection (1) of this section, the following requirements and restrictions shall apply:

- (a) The video recording should relate to the case on trial;
- (b) No leave shall be granted for the submission of a video recorded statement –
 - (i) if the person, whose statement has been video recorded, cannot appear before the court for cross-examination (if requested under this section);

- (ii) if the rules for the taking of a video recorded statement referred to in section 11 of this Law, have not been complied with;
- (iii) if the court considers, after taking into consideration all the circumstances of the case, that the interest of the administration of justice requires that the video recorded statement should not be submitted;
- (c) the sound track of the videotape in which the statement has been recorded shall be submitted transcribed and typed with the video recorded statement.

(3) Any declaration contained in a video recorded statement which is admissible as evidence under this section, shall be deemed to be direct oral evidence of the person making the declaration and therefore—

- (a) Shall be admissible as evidence of any fact that would have been admissible in the case of direct oral evidence;
- (b) No such declaration may be used as corroboration of other evidence of the same witness.

(4) The application of the provisions of subsection (1) of this section shall not affect the power of the Court to exclude any admissible evidence if it considers this to be in the interest of justice.

11. The rules for the taking of a video recorded statement are the following:

Rules for the taking of a video recorded statement.

- (a) The name, address, profession and capacity of the person taking the statement as well of the person operating the video camera shall be mentioned or recorded at the commencement of the statement;

- (b) the place, date and time of the commencement of the taking of the statement as well the time of conclusion of the statement shall be mentioned or recorded;
- (c) the name, address, profession and other particulars of the person giving the statement shall be mentioned or recorded;
- (d) a declaration of the person taking the statement to the person giving the statement to the effect that the statement shall be video-recorded and that it may be submitted before the Court as evidence and a declaration of the person giving the statement that he consents shall be written down. Furthermore, the said declaration shall be written down and signed by the person making the statement upon a relevant confirmation by the person taking the statement. This provision shall not apply in the case of a minor not being accompanied by the person having his/her parental care or by a welfare officer or a family counselor. In the case where the minor is accompanied by any of the above persons, the consent shall be given by such person.

(e) *(Repealed)*.

8 of 212(I)/2004.

12.-(1) The Court may, at the examination of an application for presentation of a video recorded statement, if is of the opinion that the interest of justice so requires, order that certain parts of the video-recording should not be submitted as evidence. The Court, in the exercise of its discretionary power shall take into consideration the probable harm that may be suffered by the accused or any accused if, more than one, and whether this is greater than the benefit of submitting the video recorded statement or part thereof. The Court shall also take into consideration any pressures that may be exerted upon the

Power of the Court not to allow the presentation of part of the statement.

witness for the purpose of compelling him not to appear and give evidence before the Court.

(2) The Court may order that parts of the video recorded statement or of the typed and transcribed sound track of the videotape shall be deleted if it considers that they do not constitute admissible evidence or if it considers it expedient in the exercise of its powers pursuant to subsection (4) of section 10 of this Law.

13. Where a video recorded statement is received by virtue of section 10 of this Law, the person whose evidence was video-recorded shall be called as a witness by the side which requested the presentation of the video recorded statement and this witness shall be placed at the disposal of the other side for cross-examination purposes, subject to the provisions of section 19 of this Law. No examination-in-chief shall be made on the issues covered by the video recorded statement except only with the leave of the Court:

Examination-in-chief
with the leave of the
Court.

Provided that, where the witness is called to give evidence for cross-examination purposes, the provisions of section 55 of the Criminal Procedure Law shall apply.

14. Without prejudice to the provisions of section 10 of the Evidence Law, the complaint by a victim of violence to any police officer, family counselor, welfare officer, psychologist, doctor, including a psychiatrist who examines the victim, an educationalist, members of the Advisory Committee, a member of the Association for the Prevention of Violence in the Family or members of the close family environment of the victim within a reasonable time from the commission of the offence, shall constitute evidence.

Immediate complaint
admissible as
evidence.
Cap. 9.
42 of 1978
86 of 1986
54(I) of 1994
94(I) of 1994
32(I) of 2004.
9 of 212(I) of 2004.

PART V – Trial of cases and evidence

15.–(1) The Court may, upon application by the Police, issue a warrant for the arrest of any person accused for any act of violence under this Law. Speedy trial.

(2) A person arrested under subsection (1) shall be brought before the Court within twenty-four hours from his arrest, to be charged for the offence of violence or for the issue of an order for his remand in custody under section 24 of the Criminal Procedure Law.

(3) The investigation shall be conducted and the case shall be tried without delay. The Court may, at any time before the completion of the trial, either direct the detention of the accused or allow his discharge on bail to the satisfaction of the Court that he will appear on the date of the trial of the case and that he will keep the conditions that appear to the Court necessary to impose for the protection of the members of the family, including the condition not to visit or harass in any way a member of his family.

(4) The Attorney-General of the Republic may consent to the trial of any case of violence under this Law by a judge exercising criminal jurisdiction. 10 of 212(I)/2004.

16. The Court may find the accused guilty upon the testimony of the victim only, if it is not possible under the circumstances to secure corroboration. Corroboration.
11 of 212(I)/2004.

17.–(1) Where a minor, during his/her examination by a psychiatrist or psychologist for the purposes of evaluation or psychotherapy, mentions that he/she has been ill-treated by any person, the testimony of the psychiatrist or psychologist may be admissible in Court as an exception to the rule against hearsay. Testimony of a
psychiatrist or
psychologist.

12 of 212(I)/2004.

(2) The Court shall not convict any person upon the evidence mentioned in subsection (1) above, unless such evidence is corroborated in material issues by other independent evidence which may include evidence of an expert.

18.—(1) During the trial of cases for the commission of offences of violence, the Court—

Prevention of
intimidation.

- (a) Shall order that the whole or part of the case be tried in camera; and
- (b) may order, that the testimony of any victim of violence and any other person for whom there is reasonable suspicion that he/she is in any danger or under threat by a reason of the fact that he/she will testify as a witness, or that his/her testimony may be adversely affected, be taken in the absence of the accused giving all those directions and causing all the necessary arrangements to be made so that the accused will know of the testimony of the said witness and cross-examine him/her.

(2) Without prejudice to the generality of subsection (1), the following measures may be used for purposes of protecting the witnesses:

- (a) The placing of a special screen; or
- (b) the use of a closed television circuit; or
- (c) the use of any other means or system,

in a manner that the witness shall not be visible by the accused and vice versa. In order to safeguard the rights of the accused the appropriate technological arrangements or other installations shall be made in the aforesaid cases, so that the accused shall be able to listen to the procedure and give instructions to his lawyer.

19. The Court may intervene during the cross-examination of minors or other victims of violence and give the appropriate directions to prevent their intimidation by aggressive and intensive questioning or by questions containing threats of any kind.

Control of cross-examination.

20. Notwithstanding the provisions of section 14 of the Evidence Law, the spouse of an accused charged with an offence of violence within the meaning of this Law, shall be a competent witness if the spouse is the victim of violence and a competent and compellable witness if the victim of violence is another member of the family.

Compellability of spouses.

PART VI – Orders and treatment of an accused

21.—(1) The Court may, during or after the trial of a case of violence where the victim is a minor, order the removal of such victim and his/her placing in a safe place or his/her placing under the care of the Director of Social Welfare Services of the Ministry of Labour and Social Insurance, for such a period as it may considers appropriate.

Court order for the removal of a minor.

(2) The Court may issue an interim order for the removal of a minor victim by applying the provisions of section 22 of this Law.

22.—(1) The Court may, upon application by a member of the family or by the police or by the prosecutor or by the Attorney-General of the Republic or by a Family Counselor or by another person acting on behalf of any of the above, issue an interim order restraining the suspect or for the removal of the minor victim until a criminal case against the accused for the criminal offence of violence is filed and tried.

Interim order restraining the suspect or removing the victim.
13(a) of 212(I)/2004.

(2) The Court shall issue an order, at any time, upon an application accompanied by an affidavit sworn by the victim or, in the case of a minor victim, by any other person who is in a position to have direct knowledge of the facts or by any other evidence, causing a prima facie risk for use or repetition of violence, including statements of the victim or other persons in any form, certificates, confirmations and other evidence under this or any other Law. 13(b) of 212(I)/2004.

(3) (a) The interim order shall be valid for a period up to eight days from the day of its service to the suspect and shall be returnable to the Court during such period at the time and day as may be specified by the Registrar.

(b) At the day and time specified by the Registrar the Court shall hear the suspect or / and any affected or interested person who shall appear and shall decide whether to terminate the validity of the order or to extend it up to eight additional days.

(c) The Court may further extend the order up to eight days, in each case, provided that the total validity of the order shall not exceed twenty four days before the filing of the criminal charge against the suspect.

(d) The Court may, after the filing of the criminal charges against the suspect, issue or extend an order to restrain or remove a minor victim to be valid until the trial of the case.

23.—(1) The Court may issue against a person charged for the commission of any offence of violence, under this Law, an order valid for such period and upon such conditions as it may impose, prohibiting such person to enter or remain in the marital home. Such an order shall be called “a restraining order”.

Restraining
Order.

(2) For the issue of a restraining order it is required that—

- (a) It is proved to the satisfaction of the Court that the accused has a history of repeated acts of violence against members of his family or that he has two convictions in the last two years for similar offences; or
- (b) the violence used has caused such actual bodily, sexual or mental harm, as to endanger the life, integrity or sexual or mental health of the victims; or
- (c) the accused refuses to be submitted to self-control treatment imposed as a condition for the purposes of applying section 33 of Criminal Code or otherwise.

(3) The Court shall, in the restraining order fix a date before the expiration of the restraining period, for the purpose of examining the possibility of extension or variation of such order.

The Court shall, in the aforesaid examination, hear the views of the accused or of the complainant and any other person affected by the issue of the order, unless where they are minors and it is not considered expedient that they shall testify against the accused, as well as the views of the competent services.

(4) The accused may apply for the revision or annulment of the rest order before the expiration of the period fixed therein.

(5) Restraining orders shall be imposed in lieu of any other penalty, subject to the provisions of subsection (6) of this section, or together with other penalties that the Court has power to impose under any other law.

(6) The Court shall not issue a restraining order in cases where it imposes simultaneously a sentence of imprisonment for any period exceeding six months. In cases where a sentence of

imprisonment for a period not exceeding six months is imposed, a restraining order may be made simultaneously with the sentence of imprisonment but the validity shall commence after the release of the accused.

(7) Any person against whom a restraining order has been issued, who, while the said order is in force, contravenes any of the conditions thereof shall commit an offence punishable with imprisonment up to two years. The provisions of section 15 of this Law for a speedy trial of cases of violence shall also apply in the cases of commission of offences in contravention of the provisions of this subsection.

24.—(1) In issuing a restraining order the Court shall take into consideration the ownership of the marital home and shall issue an appropriate order in relation to the accommodation of the suspect or accused or his family, as follows:

Supplementary provisions relating to section 23.

- (a) If the accused has no share in the ownership of the marital home more than half, the Court shall not inquire into the matter of accommodation for the accused but shall refer the matter for examination to the Family Counselor;
- (b) if the accused has an undivided share of more than half in the ownership of the marital home, the Court shall inquire into the matter of accommodation of the accused and thereafter shall give such directions as it may deem necessary regarding the accommodation of the accused or his family or any members thereof.

(2) The Court, when giving directions in cases under paragraph (b) of subsection (1) of this section, shall inquire into, among others, the financial means of the accused and his family

in relation to the accommodation of the accused or of his family or any member thereof and shall afford the accused the right to apply to the Court within a fixed period of time and request the change of the address of the marital home for which the restraining order is in force, if he finds suitable home for his family to move.

(3) For the purposes of this section, “suitable home” means a house which the accused may find for his family under subsection (2) of this section, which must be such as to ensure as far as possible the smooth continuation and functioning of the family of the accused therein.

25.—(1) The Court may, if it considers expedient, in lieu of imposing any other sentence on the accused, accept his request to place him on probation under the Probation and Other Means of Treatment of Offenders Law on the special condition that he will be submitted to self-control treatment by specialists or on such other conditions as the Court may consider necessary for preventing the repetition of acts of violence.

Probation order or suspension of imprisonment on special conditions.

46(I) of 1996.

(2) The Court may, if it deems expedient impose on the accused a suspended sentence of imprisonment notwithstanding the provisions of section 5 of the Sentence of Imprisonment (Conditional Suspension in Certain Cases) Law, and to place the accused during the period of suspension on probation and on the special condition or any other conditions referred to in the subsection (1) above.

95 of 1972
41(I) of 1997
186(I) of 2003.

PART VII – Fund

26.—(1) There shall be established a Fund with the name “Fund for the Victims of Violence” for achieving and promoting the objects of this Law. The Fund shall be a body corporate with perpetual succession and a seal of prescribed form and shall have power to acquire, possess and dispose of, property, enter into contracts, bring and defend civil actions or other legal proceedings and generally do whatever is necessary for the objects of its establishment, utilization and development.

Establishment of Fund.

(2) All contributions, donations, bequests and grants shall be deposited in the Fund.

(3) All the contributions to the Fund, of any form, shall be considered to be made for charitable purposes.

(4) Unless a contribution is ear-marked for a particular purpose, the allocation of sums deposited in the Fund shall be made in the discretion of the Advisory Committee on the basis of priorities and programmes which it shall from time to time prepare.

(5) There shall be allocated from the Fund sums, for purposes of dealing with immediate needs, finding accommodation pursuant to section 24 of this Law, assisting of victims of violence and for other purposes which the Committee may deem appropriate and the Minister may approve.

27.—(1) The Fund shall be administrated by the Advisory Committee which shall be specially convene as the Administrator of the Fund.

Administration of the Fund.

(2) The Court and the Attorney-General of the Republic shall have and shall exercise in relation to the Fund the same powers that they have in accordance with the provisions of the Associations and Institutions Law, or other relevant law, as if the Fund is a charitable institution and is registered in accordance with the provisions of the said Law.

57 of 1972
85(I) of 1997.

28.—(1) Subject to subsection (2) of this section, the Advisory Committee, acting as the Administrator of the Fund, may invest and utilize money of the Fund in any way it may deem necessary for the strengthening and better development of the fund.

Investments.

(2) Where the Advisory Committee intends to use money of the Fund for purposes of investment or its development and the amount to be used exceeds one half of the total of the deposits of the Fund, the Advisory Committee shall before doing so submit its decision to the Minister for approval.

29. The Advisory Committee acting as the Administrator of the Fund shall, with the approval of the Minister, make regulations for the better operation of the Fund, including the manner of disposing of the resources and property of the Fund.

Regulations.

30. For purposes of auditing the accounts of the Fund the provisions of section 39 of the Associations and Institutions Law shall apply.

Auditing.

PART VIII- Shelter and Offences

31. A shelter may be established and operate for the provision of safe accommodation to victims of violence and in case such shelter is in operation under a certificate of suitability issued by the Minister, pursuant to this section, the victims of violence accommodated therein shall have legal protection from any harassment.

Establishment and
operation of a shelter.

32. An accused or any other person acting on his behalf or by his own motion, who harasses or intimidates a victim of violence or a witness in a case of violence or a relative thereof in any place, and in a manner which affects or could affect the investigation or trial of a case of violence or causes mental agitation to a victim of violence or a witness in a case of violence knowing that he is a victim of violence or a witness in a case of violence, shall commit an offence punishable with imprisonment up to three years or with a fine up to one thousand five hundred pounds or with both such penalties and where the harassment or intimidation is committed against a victim accommodated in a shelter, the offence shall be punishable with imprisonment up to five years or with a fine up to three thousand pounds or with both such penalties.

Harassment of a victim and other person.

33. The provisions of section 15 of this Law concerning speedy trial shall also apply in the case of offences committed in contravention of the provisions of section 32 of this Law.

Application of the provisions of section 15.

34.—(1) Where a complaint for an offence under this Law is made, the name and address of the victim of violence or of the complainant and of the person against whom the complaint is made as well as any other particulars that may lead to the identification of the victim, shall not be disclosed or published by any means of mass media or otherwise.

Prohibition of disclosure of the identity of the victim.

(2) A violation of the provisions of this subsection constitutes an offence punishable with imprisonment up to two years or with a fine up to one thousand pounds or with both such penalties.

35.—(1) Notwithstanding the provisions of any other law, the delivery, receipt or publication—

Prohibition of delivery, receipt or publication of copies of statement to or from third parties.
14(a) of 212(I)/2004.

- (a) of any video recorded statement of a victim or witness, taken pursuant to section 10 of this Law to or from any person;

- (b) of any statement of a victim or witness in an offence of violence, other than the one mentioned in paragraph (a) above, taken by any means, other than the one mentioned in paragraph (a) above, to or from any other person who is not related to the investigation, prosecution or trial of the case,

shall be prohibited.

(2) Notwithstanding the provisions of this section or any other law, during the trial of offences of violence, pursuant to this Law, any person giving a video recorded statement under the provisions of section 10 or an accused who is called upon to plead and does not plead guilty, shall be entitled upon a written application to the prosecution, to request to be supplied with a copy of the transcribed and typed soundtrack of the videotape in which the statement to be submitted before the Court as evidence, has been recorded: 14(b) of 212(I)/2004.

Provided that, the projection of the said videotape in which the statement has been recorded may be allowed to the said persons upon their written application to the prosecution.

(3) Any person who contravenes the provisions of this section shall commit an offence punishable with imprisonment up to five years or with a fine up to three thousand pounds or with both such penalties. 14(b) of 212(I)/2004.

35A. Any person who omits to report a case of violence against a minor or a person having severe mental or psychological deficiencies, which came to his knowledge, shall commit an offence and in case of conviction, shall be liable to imprisonment up to two years or to a fine up to one thousand pounds or to both such penalties. Omission of a citizen to report cases of violence. 15 of 212(I)/2004.

PART IX – Miscellaneous

36.–(1) The Committee shall prepare budgets of income and expenditure for the complete and effective performance of its functions and objects for which it has been established which shall be approved by the competent Ministry and shall keep complete accounts. Budgets.

(2) The income of the Committee consists of Government grants, the amount of which shall be determined by the Council of Ministers.

(3) The Committee shall keep complete accounts and its accounts shall be submitted to and audited by the Auditor-General of the Republic in the same manner as the accounts in the Public Service are audited:

Provided that, the Auditor-General of the Republic may proceed to audit the accounts of the Committee whenever he deems it necessary.

37. The Committee shall prepare and submit to the Minister and to the House of Representatives an annual report regarding its activities as a Committee. Annual Report.

38.–(1) The Council of Ministers may make Regulations for the better carrying into effect of the provisions of this Law. Regulations.

(2) Without prejudice to the generality of subsection (1), the Council of Ministers may make Regulations for the registration, operation and any other matter relating to the shelter, including the imposition of fees and charges.

39. The Supreme Court may issue Rules of Court for the better carrying into effect of the provisions of sections 15, 21, 22, 23, 24 and 25 of this Law. Rules of Court.

40. The Violence in the Family (Prevention and Protection of Victims) Law shall be repealed, upon the entry into force of this Law, without prejudice to any act, action or appointment made by virtue of the repealed law which shall be deemed to have been made by virtue of this Law.

Repeal.
47(I) of 1994.