

No. 47(I) of 1994



REPUBLIC OF CYPRUS

**THE VIOLENCE IN THE FAMILY
(PREVENTION AND PROTECTION OF VICTIMS)
LAW 1994**

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and Consolidation of the Cyprus Legislation)*

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ARRANGEMENT OF SECTIONS

Section.

1. Short title.
2. Interpretation.
3. Meaning of violence and its scope.
4. Aggravated violence.
5. Rape of wife by husband.
6. Incest with minors.
7. Probation order or suspension of imprisonment with special requirements.
8. Inhibition order.
9. Supplementary provision regarding section 8.
10. Corroborating evidence.
11. Speedy trial of cases of violence.
12. Injunction for the removal of minor victims of violence.
13. Interim Order inhibiting or removing the victim.
14. Protection of witnesses.
15. Family Counsellor.
16. Advisory Committee.
17. Multidisciplinary Group.
18. Budgets.
19. Annual Report.
20. Regulations.
21. Rules of Court.

No. 47(I) of 1994
LAW WHICH PROVIDES FOR THE PREVENTION OF VIOLENCE
IN THE FAMILY AND PROTECTION OF VICTIMS

The House of Representatives enacts as follows:

1. This Law may be cited as the Violence in the Family (Prevention and Protection of Victims) Law 1994. Short title.

2. In this Law unless the context otherwise requires—

Interpretation.

"Committee" means the Advisory Committee, constituted under section 16.

"Court" means President of District Court or Senior District Judge.

"Family Counsellor" means the Family Counsellor appointed under section 15.

"marital home" means the place where the family has its usual residence irrespective to which one of the spouses such place belongs and in what proportion.

"members of the family" means husband and wife who are legally married or who are cohabiting as a husband and wife and includes the parents and also the children.

"Minister" means the Minister of Labour and Social Insurance.

"violence" means the violence as it is defined in section 3.

"self control treatment" means the treatment mentioned in section 7.

3.—(1) For the purposes of this Law violence means any unlawful act or behaviour which results in direct actual physical, sexual or psychological injury to any member of the family and includes violence used for purpose of sexual intercourse without the consent of the victim as well as for purpose of restricting its liberty. Meaning of violence and its scope.

(2) Without prejudice to the meaning of violence under subsection (1) above the offences referred to in sections 4(2), 5 and 6 fall within the said meaning.

(3) Any act or behaviour constituting violence within the meaning of subsections (1) and (2) above or constituting an offence under sections 174, 175 and 177 of the Criminal Code, if it takes place in the presence of minor members of the family shall be considered as violence exercised against the said minor members of the family likely to cause to them psychological injury. The said act or behaviour constitutes an offence punishable under subsection (4) of this section.

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.

(4) Any person using violence within the meaning of subsection (1) commits an offence under this Law punishable, unless a severer punishment is provided in another or in this Law with imprisonment for five years or with a fine of £3,000 or with both, without prejudice to the power of the Court to impose under this or any other Law any other punishment in addition to or in substitution of the above penalties.

Aggravated
violence.

4.—(1) The offences set out in the first column of subsection (2) below are committed by one member of the family against another shall be treated for the purposes of this Law as particularly aggravated and the Court when imposing sentence in the cases where the charge is based on the sections of the Criminal Code mentioned in the second column of subsection (2) may impose the increased penalties set out in the third column in lieu of the penalty provided in the aforesaid section of the Criminal Code.

(2) The offences mentioned in subsection (1) above are:—

<u>Offence</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)	The penalty of life imprisonment (the penalty remains without any change).
(d) Attempt to defilement of girl under thirteen years of age.	153(2)	The imprisonment is increased from three to seven years.
(e) Defilement of girl between thirteen and sixteen years of age.	154	The imprisonment is increased from two to ten years.
(f) Defilement of idiot or imbecile.	155	The imprisonment is increased from two to twelve years.
(g) Unnatural offence.	171	The imprisonment is increased from five to ten years.
(h) Unnatural offence with violence.	172	The imprisonment is increased from fourteen years to life imprisonment.
(i) Attempts (to commit unnatural offence)	173	The imprisonment is increased from seven to ten years.

(j) Grievous bodily harm.	231	The imprisonment is increased from seven to ten years or to the fine as provided or to both.
(k) Wounding and similar acts.	234	The imprisonment is increased from three to four years.
(l) Common assault.	242	The imprisonment is increased from one to two years or to the fine as provided or to both.

5. Notwithstanding the provisions of any law, the offence of rape contrary to sections 144 and 145 of the Criminal Code or the offence of attempted rape contrary to section 146 of the same Law may be committed by a husband against his wife if the facts of the case would have constituted the offence of rape or of attempted rape had the victim and the perpetrator not been married and is punishable as the Criminal Code provides.

Rape of wife
by husband.
Cap. 154.

6.—(1) The offence of incest under section 147 of the Criminal Code when committed against a daughter, grand daughter or sister under the age of eighteen years or against a mentally retarded daughter, grand daughter or sister is considered as particularly aggravated and is punishable with imprisonment for life.

Incest with
minors.
Cap. 154.

(2) For the purposes of this section 'mentally retarded person' has the meaning assigned to it under the Mentally Retarded Persons Law of 1989.

117 of 1989.

7.—(1) The Court, if it considers it expedient so to do, may in lieu of imposing any sentence, with the consent of the accused, place him on probation under the Probation of Offenders Law with a special requirement that he shall submit himself to treatment for selfcontrol by specialists to such behaviour or with other requirements as the Court may consider necessary for preventing the repetition of acts of violence within the scope of this Law.

Probation order
or suspension of
imprisonment
with special
requirements.
Cap. 162.

(2) If the Court thinks fit it may impose a term of imprisonment and suspend same under section 5 of the Sentence of Imprisonment (Conditional Suspension in certain cases) Law and to specify as a requirement of the supervision order the requirement defined to in sub section (1) above.

95 of 1972.

8.—(1) The Court may issue against an accused person for any offence of violence within the scope of this Law an order for such a period and subject to such conditions as the Court may impose whereby the accused is inhibited from entering or staying in the marital home. Such an order is called 'an inhibition order'.

Inhibition
order.

(2) The requirements for the issue of an inhibition order are:—

- (a) to be proved to the satisfaction of the Court that the accused has a history of repeated acts of violence against members of his family or has at least two previous convictions in the last two years for similar offences;

Cap. 154.

- (b) the violence used to have caused such actual physical, sexual or psychological injury as to endanger the life, corporeal integrity or sexual or psychological health of the victim; or
- (c) the accused refuses to submit himself to treatment for selfcontrol either imposed as a requirement in applying the provisions of section 33 of Criminal Code or otherwise.

(3) When the Court issues an inhibition order, it fixes a day which in point of time is set before the expiration of the period of inhibition mentioned in the order, for the purpose of inquiring whether the order should be extended or varied. During the aforesaid inquiry the Court hears the representations of the accused, of the complainant and of any other person affected by the issue of the order and hears also the representations of the appropriate services.

(4) The accused may apply for the revision or revocation of an inhibition order before it expires.

Supplementary
provision
regarding
section 8.

9.—(1) When the Court issues an inhibition order the following provisions shall apply, unless they are varied by the Court for the better and more expedient enforcement of the order—

- (a) where the accused has no share in the ownership of the marital home of more than one half, the Court does not inquire into the matter of accommodation for the accused but refers instead the matter for examination to the Family Councillor
- (b) when the accused has an undivided share of more than one half in the ownership of the marital home, the Court inquires into the matter of accommodation of the accused and gives such direction as it may deem necessary regarding the accommodation of the accused or his family or any member thereof.

(2) The Court when giving directions under paragraph (b) of subsection (1) above inquires among other things into the financial position of the accused and of his family in respect of the accommodation of the accused or of his family or any member thereof and affords the accused the right to apply to the Court within a fixed period of time for the change of the address of the marital home for which the inhibition order applies, if he finds suitable home for his family.

(3) For the purposes of this section "suitable home" means a home which the accused may find for his family under subsection (2) above which must be such as to disrupt the normal continuation and functioning of the family life in such home.

Corroborating
evidence.
Cap. 9
86 of 1986.

10.—(1) Without any prejudice to section 10 of the Evidence Law the reporting by a victim of violence to an appropriate person within twenty-four hours from the commission of the offence will constitute corroborating evidence of the evidence of the victim.

(2) For the purposes of this section an "appropriate person" includes any police officer, Family Counsellor, welfare officer, doctor who examines the victim, member of the Advisory Committees member of the Association of the Prevention of Violence in the Family or any member of the close environment of the victim.

11.—(1) The Court may upon application by the Police issue a warrant for the arrest of any person accused for any act of violence within the meaning of this Law.

Speedy trial
of cases of
violence.

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

Cap. 155.
93 of 1972
2 of 1975
12 of 1975
41 of 1978
162 of 1989
142 of 1991
9(1) of 1992.

(3) The investigation and trial of the case are being conducted without delay. The Court may at any time before the trial of the accused either direct the detention of the accused or release him upon furnishing satisfactory security for his appearing before the Court at the trial of his case and also for his compliance with such terms as the Court may consider necessary to impose for the protection of the members of the family including a term prohibiting him from visiting or harassing in any way any member of his family.

(4) Notwithstanding the provisions of section 24(2) of the Courts of Justice Law, the Attorney General of the Republic may give his consent for the trial by a President District Court or Senior District Judge of any case of violence within the scope of this Law despite the fact that the punishment provided by the law aggravated or not is over seven years imprisonment.

14 of 1960
50 of 1962
11 of 1963
8 of 1969
40 of 1970
58 of 1972
1 of 1980
35 of 1982
29 of 1983
91 of 1983
16 of 1984
51 of 1984
83 of 1984
93 of 1984
18 of 1985
71 of 1985
89 of 1985
96 of 1986
317 of 1987
49 of 1988
64 of 1990
136 of 1991
149 of 1991
237 of 1991
42(1) of 1992.

Provided that in such a case all the other provisions of the section 24 as aforementioned shall apply.

12.—(1) The Court may, during the trial of a case of violence where the victim is a minor, order the removal of the victim and his placing in a safe place or his placing under the care of the Director of Social Welfare Services of the Ministry of Labour and Social Insurance.

Injunction for
the removal of
minor victims
of violence.

(2) The Court may issue an interim order for the removal of minor victims applying the provisions of section 13.

13.—(1) The Court may, upon application by a member of the family or by the police or by the prosecutor or by a Family Counsellor or by other person acting on his behalf, issue an interim order for the removal of the minor victim until the filing and determination of a criminal case against the accused for a criminal offence of violence.

Interim Order
inhibiting or
removing the
victim.

(2) The Court issues the order upon an application which is being accompanied by an affidavit sworn by the victim, or in the case of a minor victim by any other person having direct knowledge of the facts therein stated.

(3) The interim order is initially valid for a period not exceeding ten days as the date of its service. Thereafter the Court considers extension of the duration of order after giving the person, against whom it is directed and also any other interested or affected by the order, the opportunity to state his views. If the Court is satisfied that it is necessary so to do it extends the order for a period not exceeding ten days. In like manner the Court may further extend the order for further period provided the aggregate of the aforesaid period does not exceed twenty five days preceding the commencement of criminal proceeding. Thereafter the order may be extended until the trial of the case.

Protection of
witnesses.

14.—(1) The Court, during the trial of a case of violence within the scope of this Law, may order that the evidence of the victim or of the witnesses be heard in camera or the entire trial be conducted in this manner, or may issue any order or give such directions necessary for the protection of the victim or of other persons, without in any way prejudicing the rights of the accused to a fair trial.

(2) When an offence under this Law is reported as having been committed, the name, the address or other particulars of the person against whom the offence has been allegedly committed should not be disclosed or be included in a written publication available to the public or in the judgment of the Court if it is likely that such particular would lead to the identification of that person as the person against whom the offence is alleged to have been committed.

Family
Counsellor.

15.—(1) The Minister appoints welfare officers for the purpose of carrying out the duties of Family Counsellors giving better effect to the provisions of this Law.

(2) The Family Counsellor shall have the following functions:

- (a) to receive complaints of use of violence and carry out the necessary investigations ;
- (b) to advice, counsel and mediate for the solution of any problems in the family that are likely to lead or have led to the use of violence;
- (c) to make arrangements for immediate medical examination of the complainant;
- (d) to take, if considered necessary, all the steps for the commencement of criminal proceedings against the perpetrator
- (e) to carry out investigations in relation to the financial state of the family in general and of the perpetrator in particular in cases where an inhibition order is contemplated;
- (f) to carry out investigations and make arrangements for the accommodation of the accused of his family in case an inhibition order is issued;
- (g) any other function which the Minister may assign to him.

(3) The Family Counsellor in carrying out his function may seek the assistance of any Government officer or the Police.

(4) The Family Counsellor in the execution of the duties referred to in paragraph (a) of sub section (2) above has the same powers as section 5(1) of the Criminal Procedure Law accords to an investigating officer and which are applied to the same extent and in the same manner as sub sections (2), (3) and (4) of the same section provide.

(5) Where the commission of an act of violence against a person under the age of eighteen is reported, the Family Counsellor may, if he considers it appropriate for the better handling of the case, bearing in mind its seriousness obtain the views, advice and opinion of the multidisciplinary group established under section 17.

16.—(1) An Advisory Committee is established for the prevention and combat of violence in the family. Advisory Committee.

Particularly the Committee:

- (a) may keep under constant surveillance the problem of , violence in the family in Cyprus.
- (b) takes all steps for the information and enlightenment of the public and of professional people using all media including special conferences, seminars and re-educational programmes.
- (c) promotes scientific research in relation to the problem of violence in the family.
- (d) promotes the operation of services necessary to deal with all aspects of violence in the family.
- (e) monitors the effectiveness of related services and the application and enforcement of the relevant legislation.

(2) The Committee consists of persons which are appointed in their personal capacity by the Council of Ministers and have the necessary knowledge and experience on matter relating to the problem of violence in the family. The persons appointed are selected from the public and private sector. The members of the Committee so appointed shall not exceed ten.

Appointees from the public sector are selected by the Ministries and Services mentioned in subsection (4) and the appointees from the private sector are selected by associations or organisations involved in the combat against the prevention of violence in the family in equal proportion.

(3) One of the members of the Committee is nominated as the chairperson who shall have the responsibility to convene meetings and appoint an acting chairperson in the case of his absence.

(4) The Minister and services mentioned in subsection (2) of this section are:

- Ministry of Health.
- Ministry of Justice and Public Order.
- Department of Social Welfare Services of the Ministry of Labour and Social Insurance.
- Legal Service.
- Police.

(5) The Committee may engage personnel and have an office .

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

Multidisciplinary Group. 17.—(1) The Council of Ministers may by notification published in the Official Gazette of the Republic appoint persons having the necessary qualifications and experience as members of a multidisciplinary group for the purpose of giving advise, views, opinions, any kind of assistance with regard to the better handling of victims of violence under the eighteen years of age or any other class of victims.

(2) The members of the multidisciplinary group are nominated from a list of persons prepared and submitted to the Council of Ministers by the Minister of Labour and Social Insurance and such person in the case where the victim is a person under the age of eighteen years shall be:

- a child psychologist
- a paediatrician
- a clinical psychologist
- a welfare officer of the Ministry of Labour and Social Insurance, responsible for matters relating to children,

without prejudice to the right of the Minister to include in the list any other persons possessing such other qualifications as the Minister may considers necessary.

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

Budgers. 18.—(1) The Committee prepares a budget of income and expenses for the complete and effective execution of its functions and the objects for which it has been established.

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

Annual Report. 19. The Committee prepares and submits to the Minister and to the House of Representatives an annual report regarding its activities as a Committee.

Regulations. 20.—(1) The Council of Ministers may make regulations for the better carrying out into effect of the provisions of this Law.

(2) Regulations made under this section are layed before the House of Representatives for approval.

Rules of Court. 21. The Supreme Court may publish rules for the better carrying into effect of the provisions of sections 7, 8, 9, 11, 12 and 13 of this Law.