

**TITLE 26 - FAMILY**  
**CHAPTER 9 - DOMESTIC VIOLENCE PREVENTION AND PROTECTION ACT,**  
**2011**



Republic of the Marshall Islands  
*Jepilpilin Ke Ejukaan*

**DOMESTIC VIOLENCE PREVENTION AND**  
**PROTECTION ACT, 2011.**

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**DOMESTIC VIOLENCE PREVENTION AND**  
**PROTECTION ACT, 2011.**

**AN ACT** to prevent domestic violence, protect complainants or survivors of domestic violence; to ensure investigation, prosecution and punishment of perpetrators of domestic violence; to provide treatment, rehabilitation of survivors and perpetrators, and other related matters.

*Commencement:*

*September 29, 2011*

*Source:*

*P.L. 2011-60*

*P.L. 2019-103*

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**§901. Short title.**

This Act may be cited as the Domestic Violence Prevention and Protection Act, 2011. .

**§902. Purpose.**

The purposes of this Chapter are:

- (1) to prevent violence between family members and others who are in domestic relationships;
- (2) to emphasize that domestic violence is not acceptable in the Republic;
- (3) to ensure the investigation of claims of domestic violence and the prosecution and punishment of persons who commit domestic violence;

- (4) to provide support for victims of domestic violence.

### §903. Definition.

As used in this Chapter:

- (1) "assault" has the same meaning as an offence defined under the Criminal Code.
- (2) "child" means an individual or person under the age of 18;
- (3) "court" means any Community Court, District Court and High Court of the Marshall Islands;
- (4) "domestic violence" means a person who is living with the subject person as a couple on a genuine domestic basis, or a person who is in a relationship with the subject person where one provides or both provide personal or financial commitment and support of a domestic nature for the benefit of the other, even if they are not living together;
- (5) "economic abuse" means:
  - (a) denying a spouse or domestic partner access to joint finances;
  - (b) failing to pay bills, provide food, provide shelter or provide for children's needs when money is available for such things; or
  - (c) prohibiting a spouse or partner from seeking or engaging in paid work or attending educational or training, or engage in other income generating activities.
- (6) "family member" means immediate family member including spouse, child and parent;
- (7) "petition" means a petition for a protection order;
- (8) "petitioner" means the person for whom a protection order is sought;
- (9) "protection order" means an order issued by the court pursuant to Section 906 of this Chapter.
- (10) "psychological abuse" means the perpetration of malicious and explicit nonphysical acts such as intimidation, harassment, damage to property and threats of physical abuse

or sexual abuse, and in relation to children , includes causing or allowing a child to see or hear physical, sexual or emotional abuse of a person with whom the child has a domestic relationship;

- (11) "respondent" means the person against whom a protection order is sought;
- (12) "spouse" includes the current spouse of the subject person, a former spouse of the subject person, and other biological parent of a child for whom the subject person is also a biological parent;
- (13) "sexual assault" includes every act of a sexual nature made illegal by the Criminal Code; and
- (14) "to stalk" means to pursue or harass or persecute another person by means of unwanted or obsessive attention.[amended by P.L.2019-103]

## **PART II- DOMESTIC VIOLENCE OFFENSE AND PENALTIES**

### **§904. Domestic Violence Offense.**

- (1) A person commits an act of domestic violence if the person::
  - (a) assaults a family member;
  - (b) psychologically abuses a family member;
  - (c) sexually assaults a family member;
  - (d) economically abuses a family member;
  - (e) continuously and unlawfully restrains the freedom of movement of a family member;
  - (f) stalks a family member;
  - (g) unlawfully behaves in an indecent manner to a family member;
  - (h) unlawfully damages or causes damage to a family member's property.
- (2) Any person who counsels or procures another to commit any of the acts under subsection (1) commits an act of domestic violence.

- (3) Any person who threatens to commit any of the acts under subsection (1) commits an act of domestic violence.[amended by P.L. 2019-103.]

### **§905. Domestic Violence Penalties.**

Any person who commits an act of domestic violence shall be guilty of an offense, and upon conviction for a first offense, shall be liable to pay a fine not to exceed \$400 or to serve a term of imprisonment not to exceed six months, or both. Upon conviction for a second or subsequent offense, the person shall be liable to pay a fine not to exceed \$4,000 or to serve a term of imprisonment not to exceed 35 months, or both.

## **PART III-DOMESTIC VIOLENCE PROTECTION ORDER**

### **Division 1- Power of court to grant protection order**

### **§906. Power of Court to Grant a Protection Order.**

- (1) A court may grant a protection order against a respondent if it is shown by a preponderance of the evidence that:
- (a) the respondent has commit an act of domestic violence against the petitioner; or
  - (b) the respondent is likely to commit an act of domestic violence against the petitioner; or
- (2) In deciding whether to grant a protection order, the court shall take into account the following:
- (a) all measures necessary to ensure that the petitioner and any children and other family members; and
  - (b) the well-being and accommodation needs of the petitioner and any children and other family members; and
  - (c) any other matter that the court considers relevant and significant.[amended by P.L.2019-103.]

### **§907. Mandatory Conditions of Protection Order.**

Each protection order shall:

- (1) require the respondent to be of good behaviour towards the petitioner and any other person identified in the protection order; and
- (2) require the respondent not to commit an act of domestic violence.[amended by P.L.2019-103.]

### **§908. Permissive Conditions of a Protection Order.**

A court may include all or any of the following specific conditions in a protection order:

Each protection order may:

- (1) prohibit the respondent from approaching within a certain distance of the petitioner and any other person identified in the protection order;
- (2) prohibit the respondent from approaching within a certain distance of the petitioner and any other person identified in the protection order while under the influence of alcohol, other forms of drugs or non-prescription drugs;
- (3) prohibit the respondent from being within a specified distance of specified premises, even though the respondent has a legal or equitable interest in the premises;
- (4) prohibit the respondent from communicating with the petitioner and any other person identified in the protection order;
- (5) prohibit the respondent from causing another person to engage in conduct identified in subsection 91) through (4).
- (6) prohibit the respondent from possessing any weapons;
- (7) require the respondent to dispose of any weapon or forfeit any weapon to the police for disposal;
- (8) prohibiting the respondent from damaging or taking privately or jointly owned property of the petitioner;
- (9) require the respondent to return any specified personal property to the petitioner; or allow the petitioner to recover, have access to or make use of any specified personal property;

- (10) granting the petitioner exclusive occupancy of a residence or specified part of a residence whether or not the residence is solely owned or leased by the respondent;
- (11) order or recommend that the respondent or petitioner or both attend counseling; or
- (12) include any other order the court deems necessary and appropriate.[amended by P.L.2019-103.]

### **Division 2- Temporary Protection Order**

#### **§909. Temporary Protection Order.**

- (1) A Court may issue a temporary protection order without notice to the respondent.
- (2) If the petitioner is unable to appear in court, the court may accept affidavit or hearsay evidence on behalf of the petitioner.
- (3) A temporary protection order shall remain in force for not more than 28 days, but may be extended upon motion of the petitioner or by consent of the parties for a further of 28 days. [amended by P.L.2019-103.]

#### **§910. Further Hearing by a Court.**

- (1) If the court issues a temporary protection order, the court shall include an order requiring the respondent to appear for a further hearing at a specific date and time before the expiration of the temporary protection order.
- (2) At a future hearing the court may:
  - (a) issue a permanent protection order;
  - (b) modify or rescind the temporary protection order; or
  - (c) continue the hearing and order that the temporary protection remain in effect until completion of the next hearing;
  - (d) vary temporary protection order.[amended by P.L.2019-103.]

### **Division 3 - Judicial Separation Orders and other Domestic Relation Orders.**



**§911. Reserved.****Division 4 - Application for Protection Orders.****§912. Who can apply for a Protection Order. Who can File Petition.**

A petition may be filed by:

- (1) the petitioner;
- (2) other family member or a friend of the complainant if, the complainant has given his or her oral or written consent for that friend to make the application a person authorized by the petitioner to file the petition;
- (3) a qualified legal practitioner on behalf of the petitioner;
- (4) a local police officer on behalf of the petitioner;
- (5) a prosecutor; or
- (6) an advocate or counselor or social worker from any crisis or rehabilitation center. [amended by P.L.2019-103.]

**§913. Form and Content of Petition.**

- (1) A petition may be made orally, in writing, or by any other mode as required by the court rules and procedures.
- (2) If the petition is made a non-written form, the court shall reduce the petition to writing.
- (3) At a minimum, the petition must include the identity of the petitioner and the respondent, describe the relationship between the petitioner and the respondent, identify any other persons for whom protection is sought, describe the act(s) of domestic violence committed by the respondent, and identify the types of protection sought. [amended by P.L.2019-103.]

### **Division 5 - Offense and Restitution.**

#### **§914. Violation of Protection Order.**

Any person who violates a protection order shall be guilty of an offense, and upon conviction for a first offense, shall be liable to pay a fine not to exceed \$400 or to serve a term of imprisonment not to exceed six months, or both. Upon conviction for a second or subsequent offense, the person shall be liable to pay a fine not to exceed \$4,000 or to serve a term of imprisonment not to exceed 35 months, or both.[amended by P.L.2019-103.]

#### **§915. Restitution.**

- (1) A court may order the respondent to pay restitution to the petitioner if he or she the petitioner, as a result of an act of domestic violence, suffered personal injury, damage to property or financial loss.
- (2) The court may take into account the following, in making an order for restitution:
  - (a) any pain and suffering;
  - (b) any physical or mental injury;
  - (c) the cost of any medical treatment incurred;
  - (d) any loss of earnings;
  - (e) the value of any property that was taken, destroyed or damaged; and
  - (f) any necessary and reasonable expenses incurred as a result of separation arising from the act of the domestic violence, including:
    - (i) accommodation expenses;
    - (ii) moving and transport expenses; and
    - (iii) the expenses of setting up a separation household, including housing loan repayments or rent for as long as the court considers reasonably necessary.[amended by P.L.2019-103.]

**PART 4 - PROCEDURAL MATTERS RELATING TO PROTECTION ORDER.**

**Division 1. Application and Service.**

**§916. Reserved.**

**§917. Reserved.**

**§918. Service of Protection Orders.**

If a temporary protection order or a protection order is issued, the court shall:

- (1) if the petitioner or respondent are present, explain the order to them in a language they understand; and
- (2) cause a copy of the order to be served personally on the respondent.[amended by P.L.2019-103.]

**Division 2. - Evidence and Burden of Proof.**

**§919. Reserved.**

**§920. Reserved.**

**PART 5 - MISCELLANEOUS**

**§921. Modification and Rescission.**

- (1) A court may modify or rescind a protection order upon motion of any person to whom the order applies.
- (2) Before the court modify or rescind a protection order, it must consider whether the complainant is in danger of person injury.[amended by P.L.2019-103.]

**§922. Consent Orders.**

A court may issue a protection order pursuant to the consent of the petitioner and the respondent.[amended by P.L.2019-103.]

**§923. Collaborative Reporting.**

- (1) Notwithstanding any other law or rule or procedure concerning confidentiality to the contrary, any person, who in his/her professional or official capacity, has reason to believe that an act of domestic violence has been committed, or who has evidence to believe that a person is at risk of domestic violence, shall immediately report the matter to the police or the court.
- (2) The following persons have a duty to report pursuant to subsection (1):
  - (a) licensed or registered health care professionals including medical examiners or coroners, counselors, social workers or case managers;
  - (b) employees or officers of public or private schools;
  - (c) employees or officers of law enforcement agencies or institutions; and
  - (d) employee or officers of any public or private agency providing recreational or sports activities except for those persons subject to a penitent-clergy privilege, employees or officers of a church.[amended by P.L.2019-103.]

**§924. Duty to Investigate and Prosecute.**

- (1) Upon being assigned to investigate a report of domestic violence, a police officer shall immediately investigate the claim. If the officer determines that an act of domestic violence has been committed, the officer shall, without undue delay, forward the results of the investigation to the appropriate prosecution agency or court.
- (2) If the prosecutor assigned to prosecute an alleged act of domestic violence determines that the allegation is supported by sufficient evidence, he/she shall, without undue delay, file the charge in an appropriate court.[amended by P.L.2019-103.]

**§925. Emergency Assistance.**

- (1) Nothing in this Chapter shall prohibit a police officer from rendering assistance to any person who alleges that he/she or a minor child has been the victim of domestic violence.
- (2) The police officer responding to the request for assistance shall as soon as practicable and acting within the law take whatever steps are reasonably necessary to protect the victim(s) from harm, and may advise the victim(s) of sources of shelter, medical care, counseling and other services.[amended by P.L.2019-103.]

**§926. Domestic Violence Prevention and Protection Fund.**

- (1) A Domestic Violence Prevention and Protection Fund is hereby established. The Fund shall be a fund within the National Treasury and under the control and supervision of the Ministry of Finance, which shall provide for its administration in accordance with the Financial Management Act of 1990.
- (2) All fines imposed and collected under this Chapter, all funds appropriated by the Nitijela for the purpose of the Fund, or any grants and gifts received for the purpose of the Fund shall be deposited into the Fund.
- (3) The Secretary of the Ministry of Culture and Internal Affairs shall make requests for withdrawal of funds to assist domestic violence center or safe house for women and children, community education programs, counselling programs, transportation services, call forwarding services or any other services in accordance with the purpose for which the Fund is created.
- (4) The Fund shall be subject to audit by Auditor General as provided under Article VIII, section 15 of the Constitution.[amended by P.L.2019-103.]

**§927. Central Data Collection, Monitoring, Reporting.**

The Secretary of the Ministry of Cultural and Internal Affairs shall be responsible for:

- (1) collecting and maintaining data of reported domestic violence cases; and

- (2) monitoring, evaluating and reporting the progress and outcomes of, domestic violence cases.[amended by P.L.2019-103.]

**§928. Effective date.**

This Chapter shall take effect on the date of certification in accordance with the Constitution and the Rules of Procedures of the Nitijela.