

Part I. LEGAL DOCUMENTS

THE GOVERNMENT

Decree No. 08/2009/ND-CP of February 4, 2009, detailing and guiding the implementation of a number of articles of the Law on Domestic Violence Prevention and Control

THE GOVERNMENT

Pursuant to the December 25, 2001 Law on Organization of the Government;

Pursuant to the November 21, 2007 Law on Domestic Violence Prevention and Control;

At the proposal of the Minister of Culture, Sports and Tourism,

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation and subjects of application

1. This Decree details and guides the implementation of a number of articles of the Law on Domestic Violence Prevention and Control regarding state policies on domestic violence prevention and control; community counseling, comments and criticism on the prevention of domestic violence; measure of contact forbidding under decisions of presidents of commune/ward/township People's Committees (below collectively referred to as commune-level People's Committees); and domestic violence victim support facilities.

2. This Decree applies to domestic agencies, organizations, families and individuals and foreign organizations and individuals operating in Vietnam (below referred to as organizations and individuals).

Article 2. Domestic violence prevention and control programs and plans

1. The Ministry of Culture, Sports and Tourism shall assume the prime responsibility for, and coordinate with concerned ministries, ministerial-level agencies and government-attached agencies in, formulating a national plan of action on domestic violence prevention and control, to be submitted to the Prime Minister for approval.

2. Annually, based on the national plan of action on domestic violence prevention and control approved by the Prime Minister, the Ministry of Culture, Sports and Tourism shall formulate national domestic violence prevention and control plans; based on the national plan of action on domestic violence prevention and control approved by the Prime Minister and the domestic violence prevention and control plans adopted by the Ministry of Culture, Sports and Tourism, People's Committees at all levels shall make local anti-domestic violence plans and organize the implementation of those plans.

3. A domestic violence prevention and control program or plan has the following major contents:

- a/ Assessing the real situation of domestic violence and domestic violence prevention and control work;
- b/ Identifying its overall objective and specific targets;
- c/ Identifying solutions and tasks to achieve the domestic violence prevention and control objective and targets, based on the national or local socio-economic conditions;
- d/ Assigning responsibilities to agencies, organizations and individuals involved in domestic violence prevention and control;

e/ Making statistics on domestic violence prevention and control;

f/ Making cost estimates for domestic violence prevention and control work.

4. Before December 15 every year, People's Committees at all levels shall review and assess the situation and results of implementation of domestic violence prevention and control plans in localities and report thereon to higher-level People's Committees; People's Committees of provinces or centrally run cities (below referred to as provincial-level People's Committees) shall send reports on results of implementation of domestic violence prevention and control plans to the Ministry of Culture, Sports and Tourism.

The Ministry of Culture, Sports and Tourism shall review, assess and report to the Prime Minister on the implementation of the national action plan on domestic violence prevention and control.

Chapter II

STATE POLICIES ON DOMESTIC VIOLENCE PREVENTION AND CONTROL

Article 3. Funding sources for domestic violence prevention and control

1. Funding sources for domestic violence prevention and control include the state budget and financial supports of domestic and foreign organizations and individuals.

2. The allocation of state budget funds for domestic violence prevention and control is provided for as follows:

a/ Annually, the State shall earmark state budget funds for domestic violence prevention and control work in accordance with the state budget law;

b/ Funds for domestic violence prevention and control activities of ministries, ministerial-level agencies, government-attached agencies and central bodies of socio-political organizations shall

be included in their annual budget expenditure estimates;

c/ Funds for domestic violence prevention and control in localities shall be assured by local budgets and included in their annual budget expenditure estimates.

Article 4. Encouragement of anti-domestic violence activities

1. Domestic violence victim support facilities, counseling centers for domestic violence prevention and control or other non-public facilities for domestic violence prevention and support of domestic violence victims, which are set up and qualified to operate under competent state agencies' regulations, are eligible for socialization encouragement policies like socialized establishments in education, vocational training, healthcare, culture, sports and environmental protection according to current laws.

2. The State encourages and provides financial assistance for the research, composition, publication and dissemination of valuable and quality literary and artistic works against domestic violence.

Article 5. Policies towards people directly involved in domestic violence prevention and control

1. People who are directly involved and record achievements in domestic violence prevention and control will be commended or rewarded under the emulation and commendation law.

2. People with brave actions to save humans or salvage the State's and people's property while directly preventing acts of domestic violence will, if losing their lives, be considered for recognition as martyrs or, if suffering injuries which reduce their working capacity by 21% or more, be considered for enjoying policies like war invalids in accordance with law.

3. People who are directly involved in domestic

violence prevention and control and suffer property damage will be paid with damages by provincial-level People's Committees in localities where domestic violence occurs, if the violators are unable to pay such damages. Compensations shall be paid from provincial-level People's Committee budgets for domestic violence prevention and control in localities.

4. The Ministry of Culture, Sports and Tourism shall guide in detail the implementation of this

Article

Chapter III

COMMUNITY COUNSELING, COMMENTS AND CRITICISM ON DOMESTIC VIOLENCE PREVENTION

Article 6. Grassroots counseling on family issues

1. Commune-level People's Committees shall identify and make lists of persons for grassroots counseling on family issues according to Clause 3, Article 16 of the Law on Domestic Violence Prevention and Control.

2. Based on local plans on domestic violence prevention and control and lists of persons defined in Clause 4 of this Article, commune-level People's Committees shall assume the prime responsibility for, and coordinate with Vietnam Fatherland Front and its member organizations and communities in organizing grassroots counseling on family issues.

3. Grassroots counseling on family issues shall be conducted in the following forms:

- a/ In person;
- b/ Through the mass media;
- c/ In other forms.

4. Commune-level civil servants in charge of judicial affairs shall coordinate with those in charge of socio-cultural affairs in providing and disseminating documents, information and

knowledge on domestic violence prevention and control to couples before they are given marriage certificates; and provide contents of grassroots counseling on family issues to the mass media.

5. Commune-level civil servants in charge of socio-cultural affairs, civil servants in charge of judicial affairs, officials of the Vietnam Fatherland Front, Vietnam Women's Union, Ho Chi Minh Communist Youth Union, Vietnam Peasants' Association, War Veterans' Association and Elderly Association; members of grassroots reconciliation teams and commune-level health workers who have been trained in counseling may conduct in-person counseling on family issues at the grassroots.

6. The Ministry of Culture, Sports and Tourism shall assume the prime responsibility for, and coordinate with the Ministry of Justice in, compiling documents on domestic violence prevention and control; and formulate training programs and organize the training of grassroots counselors on family issues related to domestic violence prevention and control.

Article 7. Community comments and criticism

1. Community comments and criticism apply to persons who commit acts of domestic violence identified in Clause 1, Article 17 of the Law on Domestic Violence Prevention and Control, if the interval between two acts of domestic violence is 12 months or less.

2. The competence to decide on and organize the gathering of community comments and criticism and persons involved in giving comments and criticism is provided for in Clause 2, Article 17 of the Law on Domestic Violence Prevention and Control. Comments and criticism on persons with domestic violence acts shall be gathered through separate meetings at appropriate time so that all related persons can attend.

3. After gathering community comments and criticism on persons with domestic violence acts,

heads of communities shall make meeting minutes and send them to commune-level civil servants in charge of judicial affairs and civil servants in charge of socio-cultural affairs for archive and serving as a basis for the application of measures to handle violations, in case the violators repeatedly commit domestic violence acts.

4. If a person with domestic violence acts is deliberately absent from a meeting to gather comments and criticism on him/her, that meeting will still proceed. In this case, the meeting minutes will be sent to such person and individuals defined in Clause 3 of this Article.

Chapter IV

CONTACT FORBIDDING UNDER DECISIONS OF COMMUNE-LEVEL PEOPLE'S COMMITTEE PRESIDENTS

Article 8. Contact forbidding

Forbidding contact with a domestic violence victim means prohibiting a person with domestic violence acts from committing the following acts:

1. Approaching the victim within a distance of less than 30m, unless there is a partition between the person with domestic violence acts and the victim such as a wall, fence or other partitions which ensure safety for the victim.

2. Using telephones, facsimiles, emails or other means of communication to commit violent acts against the victim.

Article 9. Conditions for commune-level People's Committee presidents to issue decisions on contact forbidding

1. The president of a commune-level People's Committee of the locality where domestic violence occurs shall decide to forbid the violator to contact the victim within 3 days when all the following conditions are met:

a/ There is a petition of the domestic violence victim, his/her guardian or lawful representative

or a competent agency or organization. In case a competent agency or organization makes such petition, consent of the domestic violence victim is required;

b/ There have been domestic violence acts which cause harms or threaten to cause harms to the health or life of the domestic violence victim;

c/ The person with domestic violence acts and the domestic violence victim reside in different places in the duration of contact forbidding.

2. Competent agency or organization defined at Point a, Clause 1 of this Article is the culture, sports and tourism agency; the labor, war invalids and social affairs agency; the police; the agency in which the domestic violence victim works or the socio-political organization, social organization of which the victim is a member.

3. A domestic violence act prescribed at Point b, Clause 1 of this Article is identified on one of the following grounds:

a/ Written certification issued by a medical examination and treatment establishment regarding the examination and treatment of injuries caused by domestic violence;

b/ Evidence(s) on the victim's body which is (are) visible to naked eyes or the domestic violence victim shows obvious signs of mental disorder;

c/ Evidence on a threat of causing harms to the health or life of the domestic violence victim.

4. Different places defined at Point c, Clause 1 of this Article include houses of relatives, friends, reliable addresses or other places where a domestic violence victim voluntarily moves to.

5. When the contact forbidding measure applies, priority must be given to protection of lawful rights and interests of children, women, the elderly and people with disabilities.

6. Special cases in which people with domestic violence acts may contact domestic violence victims after reporting to the heads of communities where the victims reside, include:

a/ There are funerals or weddings in their families;

b/ People suffering from accidents or serious diseases in their families;

c/ Their family property is seriously damaged due to a natural disaster, fire or epidemic;

d/ Other cases in which a contact is necessary according to fine local traditions or customs.

Article 10. Contents of contact forbidding decisions

1. A contact forbidding decision must clearly indicate:

a/ Date of issue, full name and position of the issuer;

b/ Full name and address of the person subject to the measure of contact forbidding;

c/ Grounds for application of the measure of contact forbidding;

d/ Reasons for application of the measure of contact forbidding;

e/ Duration of application of the measure of contact forbidding;

f/ Person assigned to supervise the enforcement of the measure of contact forbidding.

2. A contact forbidding decision must be signed by the decision issuer and stamped.

Article 11. Removal of the measure of contact forbidding under decisions of commune-level People's Committee presidents

1. The measure of contact forbidding shall be removed in the following cases:

a/ Upon written request of the domestic violence victim;

b/ The measure is no longer necessary;

c/ Information serving as grounds for the issue of the decision is discovered to be untruthful.

2. The president of a commune-level People's Committee who has issued a decision to apply the

measure of contact forbidding is competent to issue a decision to remove it.

3. A decision to remove the measure of contact forbidding takes effect immediately after its signing and shall be sent to the person with domestic violence acts, the domestic violence victim and the head of the population community where the domestic violence victim resides.

Article 12. Handling of violations of a contact forbidding decision

1. A person with domestic violence acts who breaches a contact forbidding decision may be put into custody according to administrative procedures in the following cases:

a/ Upon written request of the domestic violence victim;

b/ He/she has been warned of by a competent agency, organization or individual but still commits the violation intentionally.

2. The competence, order and procedures for putting people into custody according to administrative procedures comply with the law on handling of administrative violations.

3. Persons with domestic violence acts who breach contact forbidding decisions shall be administratively sanctioned in accordance with law.

Chapter V

DOMESTIC VIOLENCE VICTIM SUPPORT FACILITIES

Article 13. Activities in support of domestic violence victims

1. Activities in support of domestic violence victims are humanitarian and non-profit activities aimed at helping the victims, including:

a/ Providing health and medical care;

b/ Providing legal and psychological counseling;

c/ Providing shelters in case the victims have nowhere to reside, in order to avoid subsequent

violent acts of the persons who have committed domestic violence acts;

d/ Supporting some essential needs of the victims in case they can neither afford those needs nor get support from their relatives or friends. Support for essential needs means supplying meals, drinking water or lending clothes, blankets and mosquito nets and other essential utensils.

2. People's Committees at all levels shall create conditions for the operation of domestic violence victim support facilities

3. Commune-level People's Committees shall organize the protection of domestic violence victim support facilities when necessary.

Article 14. Conditions for setting up domestic violence victim support facilities and counseling centers for domestic violence prevention and control

1. Conditions for setting up a domestic violence victim support facility:

a/ Having fixed workplaces and funding sources to ensure operation of the facility;

b/ The head of the facility must have full civil act capacity and not be currently serving a court criminal judgment or ruling, a decision on the application of educational measures at commune, ward or township or a decision on sending him/her to a medical or educational establishment under the law on handling of administrative violations;

c/ Having counselors and workers at the facility who meet the criteria specified in Article 15 of this Decree.

2. Conditions for establishment of a domestic violence victim support facility:

a/ Conditions specified in Clause 1 of this Article;

b/ The establishment has a minimum area of 30 square meters, with rooms arranged as shelters for domestic violence victims, which must satisfy hygienic and environmental requirements.

Article 15. Criteria for counselors and workers at domestic violence victim support facilities and counseling centers for domestic violence prevention and control

1. A counselor must fully meet the following criteria:

a/ Having full civil act capacity and good moral qualities;

b/ Having suitable knowledge and experience in counseling and support of victims;

c/ Having professional certificates of care and counseling on domestic violence prevention and control.

2. Workers at domestic violence victim support facilities and counseling centers for domestic violence prevention and control must be trained in domestic violence prevention and control.

3. The Ministry of Culture, Sports and Tourism shall specify criteria for counselors; grant of counselor cards and professional certificates of care and counseling on domestic violence prevention and control, and training in domestic violence prevention and control.

Article 16. Procedures for registration of operation of domestic violence victim support facilities and counseling centers for domestic violence prevention and control

1. Domestic violence victim support facilities and counseling centers for domestic violence prevention and control may operate only after being granted operation registration certificates.

2. A dossier for operation registration comprises:

a/ An application for operation registration by the domestic violence victim support facility or counseling center for domestic violence prevention and control;

b/ A draft working regulation of the domestic violence victim support facility or counseling center for domestic violence prevention and control;

c/ Papers, documents proving the satisfaction

of conditions for the establishment of a domestic violence victim support facility and counseling center for domestic violence prevention and control as specified in Article 14 of this Decree;

d/ Written certification by the commune-level People's Committee regarding the location of headquarters of the domestic violence victim support facility or counseling center for domestic violence prevention and control.

3. Within 30 days after receiving a complete dossier for operation registration from a domestic violence victim support facility or counseling center for domestic violence prevention and control as prescribed in Clause 2 of this Article, the competent state agency shall issue an operation registration certificate; in case of refusal, it must give reasons in writing.

4. A domestic violence victim support facility or counseling center for domestic violence prevention and control shall operate strictly according to the contents of its operation registration certificate. In case of a change in its name, address of its headquarters, its head or operation contents, the organization or individual that has set up that facility or center must fill in procedures for renewal of the operation registration certificate.

5. The Ministry of Culture, Sports and Tourism shall guide in detail procedures for registration of operation of domestic violence victim support facilities and counseling centers for domestic violence prevention and control.

Article 17. Competence to grant operation registration certificates to domestic violence victim support facilities and counseling centers for domestic violence prevention and control

1. The provincial-level People's Committee shall grant operation registration certificate to a domestic violence victim support facility or counseling center for domestic violence prevention and control in the following cases:

a/ The facility or center is headquartered in a

province or centrally run city and set up by a ministry, ministerial-level agency, government-attached agency or central body of a socio-political organization;

b/ The facility or center is located in a province or centrally run city and set up by a foreign organization or individual;

c/ The facility or center is set up by the provincial-level People's Committee.

2. People's Committees of districts, towns or provincial cities shall grant operation registration certificates to domestic violence victim support facilities and counseling centers for domestic violence prevention and control which are set up by domestic organizations or individuals and fall into cases other than those specified in Clause 1 of this Article.

Article 18. Suspension, revocation of operation registration certificates of domestic violence victim support facilities and counseling centers for domestic violence prevention and control

1. A domestic violence victim support facility or counseling center for domestic violence prevention and control that, in its operation course, no longer satisfies the conditions specified in Article 14 of this Decree shall be suspended until it satisfies the operation conditions.

2. A domestic violence victim support facility or counseling center for domestic violence prevention and control shall have its operation registration certificate revoked in the following cases:

a/ The certificate is granted *ultra vires* or in contravention of law;

b/ The facility or center fails to commence operation within 12 months after being granted the certificate;

c/ The facility or center changes its purpose of operation;

d/ The facility or center is dissolved.

3. The agency which has granted the operation

registration certificate to a domestic violence victim support facility or counseling center for domestic violence prevention and control is competent to issue a decision to suspend or revoke the operation registration certificate of that facility or center.

Article 19. Financial support for domestic violence victim support facilities and counseling centers for domestic violence prevention and control

1. A domestic violence victim support facility or counseling center for domestic violence prevention and control may receive the State's financial support in the following cases:

a/ It is set up in a locality with many domestic violence victims as identified by the provincial-level People's Committee;

b/ It is set up in a deep-lying or remote area, area meeting with socio-economic difficulties or exceptional difficulties.

2. Financial support for facilities and centers specified in Clause 1 of this Article shall comply with domestic violence prevention and control plans made by People's Committees at all levels; the support shall be included in their annual budget estimates for domestic violence prevention and control.

3. Financial support for facilities and centers specified in Clause 1 of this Article shall be defined based on the scale and efficiency of operation of the facilities and centers and the number of annual support beneficiaries.

4. The Ministry of Finance shall assume the prime responsibility for, and reach agreement with the Ministry of Culture, Sports and Tourism in, specifying cases eligible for financial support and levels of support according to Clauses 2 and 3 of this Article.

Chapter VI

IMPLEMENTATION PROVISIONS

Article 20. Application of law to domestic violence victim support facilities and counseling

centers for domestic violence prevention and control which were set up before the effective date of this Decree

1. Domestic violence victim support facilities and counseling centers for domestic violence prevention and control which were set up before the effective date of this Decree but fully meet the conditions specified in Article 14 of this Decree may continue operation.

2. Within 6 months after this Decree takes effect, a facility or center defined in Clause 1 of this Article shall file an application to a competent agency defined in Article 17 of this Decree in order to be granted an operation registration certificate. If the facility or center fails to file such an application within the above time limit, it may not continue its operation.

3. Domestic violence victim support facilities and counseling centers for domestic violence prevention and control which were set up before the effective date of this Decree shall fill in operation registration procedures under Article 16 of this Decree in order to be granted operation registration certificates.

Article 21. Effect

This Decree takes effect 45 days from the date of its signing.

Article 22. Implementation responsibility

1. The Ministry of Culture, Sports and Tourism shall assume the prime responsibility for, and coordinate with concerned ministries and branches in, guiding the implementation of this Decree.

2. Ministers, heads of ministerial-level agencies, heads of government-attached agencies, presidents of provincial-level People's Committees and concerned organizations and individuals shall implement this Decree.

On behalf of the Government

Prime Minister

NGUYEN TAN DUNG