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LAW NO .003 OF 2005 EBSN PROJECTION AGAINST DOMESTIC VIOLENCE LAW 2005.

LONG TITLE

A Law to Provide for Protection Against Domestic Violence and for Related Matters.

ENACTMENT

The Ebonyi State House of Assembly enacts as follows:

SECTION 1: CITATION

This law shall be cited as Protection Against Domestic Violence and Relation Matters Law No. 003 of 2005.

SECTION 2: COMMENCEMENT

This law shall be deemed to have come into effect on Wednesday, the 22nd day of June, 2005.

SECTION 3: INTERPRETATION.

In this law unless the context otherwise requires:-

“*Arm*” means object or instrument capable of being used to inflict physical harm;

“*Complaint*” means any fact alleged by a victim or applicant under this law;

“*Court*” means Magistrate Court charged with proceedings under this law or designated for such.

“*Domestic Relationship*” means marital or familial relationship between complainant and respondent;

“*Domestic Violence*” means physical attack or abuse and includes verbal attack capable of causing emotional and psychological pain.

“Emergency monetary relief” means compensation for losses or expenses incidental to domestic violence and includes loss of earnings, medical and or relocation expenses.

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“Policeman” means a member of the Police Force and includes a police officer

“Interim protection order” means an initial order made by court before return date for hearing an application for protective order.

“Protection order” is a substantive order of court after hearing application for protective order for providing relief and safety for a victim of domestic violence.

“Social worker” means a person trained, qualified and employed as such and includes a health worker, human rights personnel and officer of any group whose object includes providing support for victims of domestic violence.

“State” means Ebonyi State Nigeria.

SECTION 4: PROHIBITION OF DOMESTIC VIOLENCE

1. It shall be an offence from the commencement of this law for any person to met out domestic violence on any person with whom he is or was in a domestic relationship.
2. Any person against whom domestic violence:
 - (a) has been
 - (b) is being or
 - (c) is likely to be committed

shall be entitled to apply to the court for a protection order.

SECTION 5: DUTY TO ASSIST VICTIM

(1) Any policeman or social worker present at the scene of domestic violence or who learns of any incident of domestic violence shall

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(a) render such assistance to the victim as may be required in the circumstance, including:

i. using reasonable force to rescue

ii. making arrangement for victim to find suitable shelter

iii. directing victims to obtain medical treatment; and

iv. arresting the offender, provided that in the case of a social worker, report shall be made to the nearest police formation for such arrest

(2) Any offender arrested under subsection (1) section shall not be detained beyond a period exceeding 24hours.

SECTION 6: FORMAL COMPLAINT

(1) A victim of domestic violence of a magnitude amounting to crime under the criminal code shall lodge a complaint to the police for investigation and prosecution.

(2) A victim under this section may involve a legal practitioner, social worker or women's rights group for assistance in ensuring proper police investigation and prosecution of complaint.

SECTION 7: INTERIM PROTECTION ORDER FOR REPEATED INCIDENTS

(1) Where there has been:

a. repeated incidents of domestic violence against a particular victim
or

- b. undue hardship may be suffered by victim if a protection order is not issued, the court shall upon application by victim, notwithstanding the fact that Respondent was not served notice of proceedings, issue an *interim* protection order against the respondent in such terms as the court deems necessary.
- (2) A notice of proceedings for protection order shall be served on the Respondent within 2 days of issuing an *interim* protection order.
- (3) The notice provided under subsection (2) of the section shall:
- a. specify the return date and place
 - b. direct the Respondent to show cause why a protection order shall not be issued:
 - c. attach any supporting affidavits or information about the complaint.

Provided that the return date under subsection 3 (a) of this section shall not be more that 7 days from date of service of notice on Respondent.

- (4) Where the Respondent neglects to attend court on the return date the court shall cause a warrant to be issued against such Respondent.

SECTION 8: HEARING ON RETURN DATE

- (1) Where the Respondent appears on the return date to oppose the application for protective order, or the Respondent is brought to court upon execution of warrant of arrest, the court shall:
- a. proceed to hear the matter and consider any additional evidence received and such affidavits or counter-affidavits or oral evidence which in its opinion shall be relevant to the determination of the suitability or otherwise of issuing a protective order.

- b. If it is of the opinion that it is desirable, order that in the examination of witnesses, a complainant or respondent not represented by a legal practitioner shall:
 - i. not be entitled to cross-examine directly a person who is in a direct domestic relationship;
 - ii. put such question to the witnesses as are necessary to decipher the facts.

(2) No person shall come within hearing distance at proceedings under this law except:

- a. officer of the court
- b. parties to the proceedings
- c. social worker, police or legal practitioner representing a party
- d. witnesses or
- e. any other person whom the court in its discretion may permit to be present.

SECTION 9: ISSUING A PROTECTION ORDER

(1) Where the respondent fails to attend court on return date and the court is satisfied that:

- a. proper service has been effected on respondent and
- b. the application contain prima facie evidence that respondent has committed or committing acts of domestic violence against Applicant: or

(2)Where a respondent attends court and after hearing the court finds on a balance of probabilities that respondent has committed, is committing or is likely to commit acts of domestic violence against applicant, issue a protection order in such terms as it deems desirable in the circumstance;

SECTION 10: SERVICE OF PROTECTION ORDER.

Upon the issuing of a protection order under section 9 of this law, the Registrar of the court shall cause the original copy of such order to be served on respondent within 48 hours of issuing the order.

SECTION 11: MINIMUM CONTENT OF PROTECTION ORDER

(1)The protection order issued under this law may restrain or prohibit the respondent from:-

- a. committing any acts or further acts of domestic violence against Applicant or
- b. enlisting the help of any person to commit such acts
- c. entering a residence shared by applicant and respondent
- d. entering a specified part of such shared residence
- e. entering the Applicant's place of work or
- f. carrying out, engaging in, any act which in the circumstance the court considers harmful to the Applicant.

(2)The court may by protection order impose any conditions or mandate the doing of acts necessary to protect and provide for the safety, health and well being of the Applicant and children if any, and in particular the protection order may:-

- a. order the respondent to discharge or continue to discharge obligation of rent or mortgage payments in respect of the Applicant.

- b. order the respondent to pay necessary monetary relief for medical and feeling needs of the Applicant, provided that in making such orders under this subsection regard should be had to the financial status of the respondent.

(3) Restraints, prohibition, directions and orders in a protective order under this law, shall have the effect of a civil judgment of the issuing court and disobedience thereto shall amount to contempt.

SECTION 12; NON-DEROGATION, ETC, FROM MATRIMONIAL CAUSES LAW.

Notwithstanding the provisions under this law, the court shall in appropriate cases refer to maintenance and custody under the matrimonial causes law in force.

SECTION 13: BAR TO PUBLICATION.

It shall be an offence under this law for any person to publish or broadcast by any means, reports of proceedings or disseminate information which may reveal testimonies and identity of parties thereto.

Penalty:- Imprisonment for a term not exceeding 6 months or fine not less than five thousand naira or both such imprisonment and fine

SECTION 14: SEIZURE OF ARMS OR WEAPONS OF VIOLENCE.

(1) Any policeman who is in the course of effecting arrest under Section 5 of this law shall have power to seize any arms or weapons of domestic violence found in the possession of or premises of the respondent;

(2) Any arm or weapon seized under subsection 1 of this Section shall be marked and used as exhibit during proceedings and

(3) Shall not be returned to the Respondent or owner except on order of court made on such condition as the court may deem fit.

(4) Nothing in this Section shall prevent a social worker or any person in aid of a victim of domestic violence from seizing arm or weapon that is intended for violence against him and handing over same to the nearest police station at the earliest opportunity.

SECTION 15: VARIATION OR SETTING ASIDE OF PROTECTION ORDER.

(1) Where a term or condition in a protection order is shown to work hardship on a domestic relationship or the precursor or object of domestic violence has ceased and domestic violence abated, either party can apply to court:-

- (a) for variation of terms of a protection order or
- (b) for setting aside a protection order.

(2) The application for variation or setting aside of protection order shall be made as a motion on notice;

- a. setting out reasons for the application
- b. attaching affidavits to support application; and
- c. calling a social worker or such witnesses, if any, to convince the court of the desirability of granting the application.

(3) The court shall if satisfied that good cause has been shown for variation or setting aside of the protection order, issue an order varying or setting aside the protection order as it deems fit.

(4).The registrar of the court shall:-

- a. issue a certificate of variation setting out new terms on the varied protection order;
- b. issue a certificate setting aside the earlier protection order and

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- c. deliver such varied protection order or certificate of discharge from earlier order to the Respondent within 48 hours of such variation or setting aside.

SECTION 16: REFERRAL TO MARRIAGE COUNSELOR

Nothing in the foregoing provisions shall preclude a court upon application for or after hearing parties refer the complaint to a marriage counselor or social worker for counseling.

SECTION 17: REFERRAL FOR PSYCHIATRIC EXAMINATION

(1) The court may refer a Respondent to a psychiatrist for examination if:-

the conduct or circumstances of a Respondent suggest likelihood of mental illness or

(2) Where examination indicates mental illness, alcoholism or drug addiction, a social worker shall be mandated to liaise with Respondent's family for proper treatment and rehabilitation.

SECTION 18: APPEAL AND REVIEW.

Processes of appeal and review in the magistrates' courts of law of this State shall apply to proceedings, orders and decisions under this laws.

SECTION 19: JURISDICTION

(1) Any Magistrates Court within the magisterial district where:-

- a. applicant or respondent resides or carries on business or

- b. where the domestic violence was allegedly inflicted shall have jurisdiction to entertain complaint or application under this law.

(2) A protection order or any order made under this law shall be enforceable throughout the Federation of Nigeria.

SECTION 20: SERVICE OF PROCESSES, ETC.

Service of processes; notices and orders under this law shall be as applicable under the sheriff and criminal processes law in force in the State.

SECTION 21: OFFENCES

It shall be an offence under this law for any person to:-

- a. refuse, neglect or cause another person to refuse or neglect to obey orders, directives or decisions under this law or
- b. to willfully proffer or give information knowing it to be false in respect of or during proceedings under this law.

Penalty: Imprisonment for a term not exceeding 3 months or a fine of two thousand naira or to both such fine and imprisonment.

SECTION 22: REGULATIONS TO PROCEEDINGS AND FORM OF PROCESSES.

The Chief Judge of the State shall make regulations:-

- a. prescribing the rules of proceedings under this law
- b. setting out the format of application orders and certificates under this law.
- c. designating appropriate magistrate courts within a particular magisterial district to entertain complaints and application and.

- d. laying down such other administrative rules relating to proceedings under this law as may be required.

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SECTION 23: OBJECT AND PURPOSE.

The purpose of this law is to provide for protection Against Domestic Violence and matters Incidental thereto.

EBONYI STATE OF NIGERIA

LAW NO. 003 OF 2005

PROTECTION AGAINST DOMESTIC VIOLENCE AND
RELATED MATTERS LAW, 2005.

