

# JIGAWA STATE OF NIGERIA

## DOMESTIC VIOLENCE AND OTHER RELATED MATTERS LAW 2006

LAW NO. 6-2006

## **DOMESTIC VIOLENCE AND OTHER RELATED MATTERS LAW-2006**

A law to provide protection against domestic violence and for matters connected there with

BE IT ENACTED BY the Jigawa State House of Assembly and by the authority of it same as follows.

1. This law may be cited as the domestic violence and other related matters law 2006 and shall be deemed to come into operation on the 6<sup>th</sup> day of November 2006.
2. In this law, unless the context indicates otherwise:
  - i. “Child” means an infant or any person below 18 years.
  - ii. “Petitioner” means any person who is or has been in a domestic relationship with a respondent and who is allegedly subjected to an act of domestic violence including any child under the care of the complainant.
  - iii. “Tribunal” means tribunal established under S.7 of this law
  - iv. “Damage to property,” means a will full damaging or destruction of property belonging to or in possession of a complainant who has a vested interest, whether legal or equitable.
  - v. “Correctional measures” means measures allowed by the accused person’s personal law to bring a child, wife or husband to order.
  - vi. “Domestic relationship” means a relationship between a complainant and a respondent in any of the following ways;

- a.* They bare or were married to each other, including marriage according to any law, custom or religion.
- b.* They live or lived together in relationship in the nature of marriage.
- c.* They are parents of a child or are persons who have or had parental responsibility for that child (whether or not at the same time)
- d.* They are family members related by consanguinity, affinity or adoption.
- e.* They are or were in an engagement, dating or customary relationship, or
- f.* They share or recently shared the same residence, including house maids, domestic servants or staff, house keepers or maid licenses.

vii. “Domestic violence” means

- a.* Physical abuse; but does not include correctional measure by parents, guardians and husbands.
- b.* Sexual abuse and exploitation including but not limited to rape, incest and sexual assault.
- c.* Starvation
- d.* Emotional, verbal and physical abuse
- e.* Economic abuse and exploitation
- f.* Denial of basic education.
- g.* Intimidation
- h.* Harassment

- i.* Stalking
  - j.* Hazard attack including acid bath or attack with offensive or poisonous substances
  - k.* Damage to property
  - l.* Entry into the petitioner residence without consent where the parties do not share the same residence, or
  - m.* Any other controlling or abusive behavior towards a complainant where conduct harms or may cause imminent harm to the safety, health or well being of the complainant.
  - n.* Deprivation
- Viii (a) The unreasonable deprivation of economic or financial resources to which a complainant is entitled under the law or which the Petitioner requires out of necessity including household necessities for the petitioner and mortgaged bond repayments or repayment of rent in respect of the shared residence, or
- (b) The unreasonable disposal or seizure of household effects or other property in which the petitioner has an interest including any equitable or legal interest.
- ix. Emergency monetary relief means compensation for monetary losses suffered by a petitioner at the time of issuance of a protection order as a result of domestic violence, including
- a. Loss of earning
  - b. Medical expenses
  - c. Relocation and accommodation expenses; or
  - d. Necessaries,

- x. “Emotional, verbal and psychological abuse” means a pattern or degrading or humiliating conduct towards a complainants, including:
  - a. Repeated insults ridicule or name calling as to cause emotional pain.
  - b. Repeated threats to cause emotional pain, or
  - c. The repeated exhibition of obsessive possessiveness or jealousy, which is such as to constitute a serious invasion of complainant’s privacy, liberty, integrity or security.
- xi. “Exploitation” connotes taking undue advantage of the complainant
- xii. “Harassment” means engaging in a pattern of conduct that includes the fear of harm to a complainant including
  - a. Repeatedly watching, or loitering outside of or near the building or place where the complainant resides, works, carries on business, studies and place of recreation after studies,
  - b. Repeatedly making telephone calls or inducing another person to make telephone calls to the complainant, whether or not conversation ensues.
  - c. Repeatedly sending, delivering or causing the delivery of letters, telegrams, packages, fac-similes, electronic mail or other objects to the complainant.
- xiii. “Intimidation” means uttering or conveying a threat, or causing a complainant to receive a threat, which includes fear and anxiety.
- xiv. “Organization” means civil servants, groups, religious groups or community organizations.

- xv. “Physical abuse” means any act or threatened act of physical violence towards the person of the complainant;
- xvi. “Prescribed” means prescribed in terms of a regulations made under section 6 or 7 but, in section 7 excludes an interim protection order.
- xvii. “Relevant state” means the state in which he complainant ordinarily resides or where the incidence occurs.
- xviii. “Respondent” means any person who is or has been in a domestic relationship with a complainant and who has committed or allegedly committed an act of domestic violence against the complainant.
- xix. “Sexual abuse” means any conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity, or dignity of the victim;
- xx. “Sheriff” means a sheriff appointed in terms of the Sheriff and Civil procedures Law cap 138 Laws of Jigawa State 1998.
- xxi. “Stalking” means repeatedly following, pursuing, or accosting the victim;
- xxii. “Third party complainant” means any person, body of persons or organizations that lodges complainants on behalf of or for the interest of any complainant.
- xxiii. “This law includes the regulations.
- xxiv. “Violence” includes denial of rights, which does not include correctional measures by parent, guardians or husband.
  - a. The relief available under this law and
  - b. Of the right to also lodge a criminal complaint against the respondent, where a criminal offence has been committed.

- (3) Notwithstanding, the provisions of any other law the application may be brought on behalf of the complainant by any other persons, including a counselor, health service provider, member of Nigeria Police Force, Social Worker, Organization of Teachers, who has an interest in the well - being of the complainant provided that the application shall be brought with the consent of the complainant, except in circumstances where the complainant is:-
  - a. A minor
  - b. Mentally retarded
  - c. Unconscious; or
  - d. A person whom the court is satisfied is unable to provide the required consent.
- (4) The application referred to in sub- section (3) may be brought before a judge in chambers if the complainant may suffer undue hardship if the application is not dealt with immediately.
- (5) Supporting affidavit(s) by a person who has the knowledge of the matter concerned may accompany the application.
- (6) The application and affidavit(s) shall be lodged with the registrar of the court who shall within 72hours submit the process to the court.
  - (1) Where the court is satisfied that there is prima facie case that ,
    - (a) The respondent has committed an act of domestic violence and
    - (b) Undue hardship may be suffered by the complainant as a result of such domestic violence if a protection order is not issued immediately. The court shall, notwithstanding the fact that the respondents have not been given notice of the proceedings issue an interim protection order against the respondent, in the prescribed manner.
  - (2) (a) An interim protection order shall be served on the respondent in the prescribed manner.

- (b) And shall call upon the respondent to show cause on the return date specified in the order why a protection order shall not be issued.
  - (c) A copy of the application referred to in section 5 (1) shall be served on the respondent together with the interim protection order.
- (3) If the court does not issue an interim protection order in terms of sub-section (2) (a), the court shall direct the registrar of the court to cause certified copies of the application concerned and any supporting affidavits to be served on the respondents in the prescribed notice calling on the respondent to show cause on the return date specified in the notice why a protection order shall not be issued.
- (4) The return dates referred to in sub-section (2) and (3) may not be less than 8 days within which a preferred services has been effected upon the respondent provided that the return date referred to in subsection (2) (a) may be anticipated by the respondent upon not less than 24 hours written notice to the complainant and the court.
- (5) Upon service or upon receipt of a return of service of an interim protection order the registrar of the court shall forthwith cause:-
- (a) A certified copy of the interim protection order, and
  - (b) The original warrant of arrest contemplated in section (9)(3), to be served on the respondent.
- 7 (1) If the respondent does not appear on a return date as contemplated in section 6(2) or (3) and if that court is satisfied that:-
- (a) Proper service has been effected on the respondent and
  - (b) The application discusses a prima facie evidence that the respondent has committed an act of domestic violence. The court shall issue a protection order in the prescribed form.
- (2) If the respondent appears on the return date in order to oppose the issuance of a protection order, the court shall proceed to hear the matter and consider any additional evidence received and such further affidavits or oral evidence as it may direct, which shall form part of the record of the proceeding.

- (3) The court may in its own direction or on the request of the complainant, is of the opinion that it is just to do so, order that in the examination of witnesses, including the complainant, a respondent who is not represented by a legal representative is entitled to cross-examine directly a person who is in a domestic relationship with the respondent.
  - (4) The court shall, after hearing the complainant as in sub-section (2) issue a protection order in the prescribed form if it think fit.
    - (a) The original of such order to be served on the respondent, and
    - (b) A certified copy of such order and the original warrant of arrest complainant in section 9(3) to be served on the complainant.
  - (5) The registrar of the court shall forthwith in the prescribed manner forward certified copies of any protection order and of the warrant of arrest as contemplated in section 9(3) to the police.
  - (6) Subject to the provision of section 9(7) a protection order issued under sub-section (4) of this section remains in force until set aside and the execution of such shall not be automatically suspended upon the notice of appeal.
- 8 (1) the court may by means of a protection order referred to in section 6 or 7 prohibit the respondent from:-
- (a) Committing any act or any further act of domestic violence;
  - (b) Soliciting the help of another person to commit any such act
  - (c) Entering residence shared by the complainant and the respondent provided that the court may impose this prohibition only if it appears to be in the best interest of the complainant.
  - (d) Entering a specified part of a shared residence;
  - (e) Entering the complainants' residence;
  - (f) Entering the complainant's place of work
  - (g) Preventing the respondents who ordinarily lives or lived in a shared residence or a specified part of the shared residence; from committing any other act as specified in the protection order.

- (2) The court may impose any additional conditions which it deems reasonably necessary to protect and provide for the safety, health or well being of the complainants, including an order.
  - (a) To seize any arm or dangerous weapon in the possession or under the control of the respondent as contemplated in section 10 and
  - (b) That a police officer may accompany the complainant to a specified place to assist with arrangements regarding the recovery of personal property.
- (3) In ordering a prohibition contemplated in subsection 1(c), the court may impose on the respondent obligation as to discharge of rent or payment of mortgage bond having regards to the financial needs and resources of the complainant and the respondent.
- (4) The court may by order the respondents to pay emergency monetary relief having regard to the financial needs and resources of the complainant and the respondents such an order has the effect of a civil judgment of the relevant court;
- (5)
  - (a) The address of the complainant shall be omitted from the Protection order, unless the nature of the terms necessitates the inclusion of such address.
  - (b) The court may issue any direction to ensure that the complainant's service address is not disclosed in any manner that may endanger the safety, health or well being of the complainant.
- (6) Where the court is satisfied that it is in the interest of any child may:-
  - (a) Refuse the respondents contact with such child; or
  - (b) Order contact with such child on such condition as it may consider appropriate
  - (c) Court may make order as to custody of the child.
- (7)
  - (a) The court may not refuse:-
    - (i) To issue a protection order; or

- (ii) To impose any condition or make any order which it is competent to impose or make under this section merely on the ground that other legal remedies are available to the complainant.
  - (b) Where the court is of the opinion that any provision of a protection order deals with the matter that should, in the interest of justice be dealt with further in terms of any other relevant law, including the matrimonial causes law of the state, the court shall order that such a provision shall be enforced for such limited period as the court determines; in order to afford the party concerned the opportunity to seek appropriate relief in terms of such law.
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- (1) The court shall, while issuing the protection order referred to in section 6 or 7 order that the respondent and the complainant as the case may be, or any other person as it may think fit, undergo compulsory period of counseling in respect of the matter from which the application was brought.
  - (2) The chief judge of Jigawa state may in exercise of his power under section 18 of this law designate counsel under which may include- or limited to officers, professional counselors, civil servant, group or any other relevant institution.
  - (3) Reasonable ground to suspect that the complainant may suffer imminent harm as a result of the alleged breach of the protection order, the police officer shall forthwith arrest the respondent for allegedly committing the offence.
  - (4) Where the police officer concerned is of the opinion that there are insufficient grounds for arresting the respondent in terms of paragraph (3) he or she shall forthwith cause written notice to the respondent which;
    - (i) Specified the name, the residential address and the occupation of the respondent,
    - (ii) Call upon the respondent to appear before a court, and on date and at the time, specified in the notice, on a charge of committing the offence.

- (iii) Contain a certificate signed by the Police Officer concerned to the effect that he or she handed over the original notice to the respondent and that he or she explained the import thereof to the respondent.
- (5) The Police Officer shall forthwith forward a copy of the notice referred to in paragraph (4) to the registrar of the court concerned, and the mere production in the court of such duplicate original shall be prima facie proof that the original thereof was handed over to the respondent specified therein.
- (6) In considering whether the complainant may suffer imminent harm, as contemplated in subsection (3) the members of the Nigerian Police Force shall take into account:
  - a The risk to the safety, health, well- being of the complainant;
  - b The seriousness of the conduct comprising an alleged breach of the protection order; and
  - c The length of time the alleged breach occurred.
- (7) Whenever a warrant of arrest is handed over to a member of the Nigerian Police Force in terms of this Law the police officer shall inform the complainant of his or her right to simultaneously lay a criminal charge against the respondent, where applicable and explain to the complainant how to lay such a charge. This should be left in the inherent powers of the court to punish for contempt and violation of court order. The respondent who violates the protection order may be liable for arrest and possible prosecution for contempt of court.
- 10 (1) The court shall order a member of the Nigerian Police Force to seize any arm or dangerous weapon in the possession or under the control of any respondent, if the court is satisfied on the evidence placed before it including any affidavits supporting an application referred to in section 5(1) that:
  - a. The respondent has threatened or expressed the intention to kill or injure himself or herself, or any person in domestic relationship, whether or not by the means of such arm or dangerous weapons; or

- b. Possession of such arm or dangerous weapons is not in the best interest of the respondent or any other person in a domestic relationship, as a result of the respondents'
  - i. State of mind or mental condition;
  - ii. Inclination to violence; or
  - iii. Use of or dependence on intoxicating liquor or drugs.
- (2) Any arm seized under of subsection (1) shall be handed over to the holder of an office in the Nigerian Police Force.
- (3) Any dangerous weapon seized under subsection (1)
  - A. Shall be given distinctive identification mark and retained in police custody for such period of time as the court may determine; and
  - B. Shall be returned to the respondent or; if the respondent is not the owner of the firearm or dangerous weapon, to the owner thereof, by order of the court and on such condition as the court may determine provided that:-

If the court is satisfied, that it is in the interest and safety of any person concerned, or in the public interest, the court may order that the firearm or dangerous weapon be forfeited to the state.

- 11 (1) A complainant and or a respondent may, upon written notice to the other party and the court concerned apply for the variation or setting aside of a protection order referred to in section 6 in the prescribed manner.

If the court is satisfied that good cause has been shown for the variation or setting aside of a protection order, it may issue an order to this effects;

(2) provided that the court shall not grant such applicant to the complainant unless it is satisfied with the application in sub-section (1).

- 12 (1) No person may be present during any proceeding in terms of this law except:
- i. Officers of the court

- ii. The parties to the proceedings
  - iii. Any person bringing an application on behalf of the complainant under section 5(3)
  - iv. Any legal representation of any party to the proceedings
  - v. Witnesses
  - vi. No more than one person for the purpose of providing support to the complainant.
  - vii. Any other person whom the court permits to be absent provided that the court may, if it is satisfied that it is in the interest of justice exclude any person from attending any part of the proceedings.
- (2) (a) No person shall in any manner give information which might directly or indirectly reveal the identity of any party to the proceedings.
- (b) The court if it is satisfied that it is in the interest of justice may direct that any further information relating to proceedings held in accordance with this law shall not be published.
- 13 (1) Any court within the state in which
- a. The complainant permanently or temporarily resides or carries on business or is employed
  - b. The respondent resides or carries on business or is employed; or
  - c. The cause of action arose
- (2) No specified minimum period is required in relation to subsection (1) (a)
- (3) A protection order is enforceable throughout the federation irrespective of where the order was made;
- (4) The Chief Judge of the State shall have power to make regulations with respect of the proceeding arising from operations of this law.

- 14 (1) Service of any document in accordance with this law shall forthwith effected in the prescribed manner by the registrar of the court, or prescribed by the Sheriffs and Civil Processes Law Cap 138 laws Jigawa 1998, or as the court may direct.
- (2) The regulation contemplated in section 18 shall make provision financial assistance by the State to a complainant or a respondent who do not have the means to pay the fee of any services in accordance with this law.
15. The provisions in respect of appeal and review in the Sharia Courts law, Magistrate's Court law or High Court law of the state shall apply to and proceedings in accordance with this law.
- 16 Notwithstanding the provision of any other law, any person who
- a. Contravenes any prohibition, condition, obligation or order imposed section 8
  - b. Contravenes provision of section 12(2)(a)
  - c. Fails to comply with any direction in accordance with the section (2) (b); or
  - d. In an affidavit referred to in section 8(4) willfully makes a false statement in a material respect, is guilty of an offence and liable the conviction in the case of offence contemplated in paragraph (b),(c) and (d) to imprisonment for a period not exceeding one year or both
17. No police officer shall:-
- (a) Refuse to institute a case or
  - (b) Withdraw a charge, in respect of a contravention of section 16(a) unless he or she has been authorized thereto, whether in general or in any specific case, by the Attorney General of the state as contemplated in section 195 of the constitution of the Federal Republic of Nigeria 1999.
- 18 The Chief Judge of Jigawa state may make regulations regarding any Form required to be prescribed in accordance with this law.

19 Where the provision of this law contradict any of the provision of shari'a law; the shari'a law shall take precedent over the provision of this law.

MADE THIS -----DAY OF-----  
-----2006

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ALH. IBRAHIM SAMINU. TURAKI  
Executive Governor  
Jigawa State.

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