

# JURIDICAL SCIENCES

## COMPETENCES OF LAW ENFORCEMENT AUTHORITIES IN PROTECTION FROM DOMESTIC VIOLENCE IN KAZAKHSTAN

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### **Abstract**

In this article we discuss the main functions of the authorized state bodies in addressing issues of protecting a person from domestic violence in Kazakhstan. Also, the system of legislation regulating the protection of a person from domestic violence is briefly described.

**Keywords:** domestic violence, prevention of domestic violence, administrative legislation.

### *Introduction*

Despite the fact that we live in a modern developed society, cases of domestic violence in families are very common. Often these cases remain latent. The Constitution of the Republic of Kazakhstan regulates that "the dignity of a person is inviolable", "everyone has the right to protect his honor and dignity" [1].

The problem of violence in society is one of the most global problems of our time. The content of the word "violence" and its various meanings in world legislation are given close attention by the entire world community.

The sphere of family and domestic relations refers to the private life of a citizen, in which private, personal interests are intertwined, since family and domestic relations are understood as relations between spouses, former spouses, persons living or living together, close relatives, persons who have a common child (children), but as soon as conflicts occur in this area, bodily injuries, mental suffering are caused, the sphere of family and domestic relations begins to intertwine with state interests, and this sphere becomes public, since the authorized bodies need, within the framework of their competence, to take the measures assigned to them by the state to protect the life and health, rights and freedoms of the participants in the conflict.

Home victims are more vulnerable. You can hide from a street bully. But if this bully lives with you, you have common housing and property, a common child, then the situation becomes much more dangerous.

One of the main constitutional guarantees as a "prohibition of violence" is reflected in most constitutions of the countries of the world, including the Constitution of the Republic of Kazakhstan, and an important direction in the study of this topic was the need to analyze the legal protection against domestic violence in the Code of Administrative Offenses of the Republic of Kazakhstan and other legal sources of the Republic of Kazakhstan, on securing this basic principle of personal protection to the extent necessary.

### *The main content of domestic violence under the legislation of Kazakhstan*

According to the Code of Administrative Offenses of the Republic of Kazakhstan, family and domestic relations are understood as relations between spouses, former spouses, persons living or living together, close

relatives, persons having a common child (children) [2].

This definition is very ambiguous, if we consider everything separately. Since in Kazakhstan, according to the family code, the fact of a voluntary union of persons registered with the authorized bodies is recognized as marriage [3], and statistics are kept on registered and dissolved marriages. But this does not exclude the phenomenon of "civil marriage", for which there are no statistical data, but civil marriage ("actual marital relations") takes place. By entering into such an alliance, the parties, in legal terms, voluntarily allow some uncertainty in their further "family" relations. But this does not negate the protection of a cohabitant from violent acts in everyday life, as stated in the above article of the administrative law.

Over the past two decades, many States have enacted or improved legislation to prevent acts of violence and deal with violence against women. Increasingly, laws criminalize this type of violence, prosecute and punish offenders, and provide empowerment and support for victims. In addition, victims are given the opportunity to use a civil remedy [4].

The international community is aware of the acuteness and importance of the problem of domestic violence and is trying to develop a unified system for the prevention of such violence and the protection of its victims. Important components of this system are legal support, as well as public protection of victims of violence and the activities of social services. Kazakhstan is a state that has ratified a number of conventions to protect the rights of children and women. The Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women provide for the protective role of the State when there is a risk of the family becoming a source of exploitation or abuse. The UN Declaration on the Elimination of Violence against Women, adopted in 1993, outlined the main areas of manifestation of violence against women and determined practical measures to combat this social evil. The UN General Assembly, on behalf of the international community, recommended that governments of all countries condemn violence against women and immediately begin to eradicate it by all appropriate means, including through the development within the framework of domestic legislation

(criminal, civil, labor, administrative, etc.) sanctions for committing crimes against women. However, to date, international norms aimed at combating and preventing domestic violence have not been fully accepted by Kazakhstan.

The Law of the Republic of Kazakhstan "On the Prevention of Domestic Violence" contains special social services, the competences of various authorities and other specialized institutions in the field of human protection related to family and domestic relations. Also, Chapter 3 of the above law provides for measures to prevent domestic violence. Final provisions include oversight of compliance with the law in the field of prevention of domestic violence [5].

There is an active discussion on the Internet regarding the draft Law of the Republic of Kazakhstan "On counteracting domestic violence", which provides the following definition: "Domestic violence is a deliberate unlawful act (action or inaction) of a person (persons) in the field of family and domestic relations in relation to another (others), containing a threat of causing or causing physical, psychological, sexual and (or) economic violence" [6].

*Decriminalization of the criminal legislation of Kazakhstan in 2017.*

According to the Criminal Code of the Republic of Kazakhstan, "minor harm to health" is harm to human health that caused a short-term health disorder (for a period not exceeding twenty-one days) or a slight permanent loss of general ability to work (less than one tenth). The essence of the article is that beatings and acts of violence should be punishable, even if they do not cause slight harm to health, since they cause physical pain anyway. The absence of slight harm to health does not mean the absence of bruises. As a rule, bruises are one of the signs that help determine the presence of violence against a person. However, the absence of bruising may not necessarily mean the absence of violent acts [7].

Until July 2017, domestic violence was prosecuted under articles on "battering" and "intentional infliction of minor bodily harm." In July 2017, the first president signed amendments on the transfer of "beating" and "intentional infliction of minor bodily harm" from the category of criminal offenses to administrative offenses. The system of fines in Kazakhstan effectively allows the aggressor to pay for the right to violence and says that the state will tolerate abuses until a very serious offense occurs, including death.

State administration is, by definition, the implementation of the executive branch, the main activity of which in the field of protecting a person from domestic violence is the development of the main directions of state policy in the field of prevention of domestic violence; ensuring interaction between subjects of domestic violence prevention and coordination of their activities.

The competence of local representative and executive bodies includes approval and control over the execution of local budgets in terms of spending on the prevention of domestic violence; assistance in the implementation of laws by citizens; creation of aid organ-

izations and ensuring the functioning of these organizations. Also, the competence includes the identification of victims of violence among minors who have suffered from domestic violence, their registration and registration of dysfunctional families. Providing victims with special public services provided for by the law of the Republic of Kazakhstan.

In the study of the issue of the competence of the internal affairs bodies in the prevention of domestic violence, it can be said that all the main activities in resolving issues of family and domestic conflicts lie with the representatives of the police. First of all, they participate in the development of legal acts projects in the prevention of domestic violence, and carry out preventive measures. They are engaged in identifying parents and persons who do not fulfill the duties of raising children and use illegal actions against children. Maintenance of preventive accounting and control. The main activity is also the reception of applications and reports on the facts of domestic violence or their threat, carry out visits to the place and take measures to suppress them. Since the internal affairs bodies carry out preventive conversations, it is important to note that their competence includes referral of victims to aid organizations or healthcare. Family "brawlers" are taken to the internal affairs bodies, administratively detained, and in certain cases a protective order is issued. Extend the protection order through a petition to the prosecutor.

Individuals who have committed domestic violence may be subject to special judicial requirements. In our opinion, the subjects of prevention of domestic violence are in close relationship with the courts, since it is most effective to establish the limits of acceptable behavior in the family and suppress further violence in the family, carried out in court, in turn, the effectiveness of justice depends on the bodies, by which the prevention of domestic violence is carried out.

So, at the request of the police authorities, as well as on their own initiative or at the request of other participants in the proceedings on an administrative offense for the purpose of legal protection from domestic violence, specialized inter-district administrative courts, when administering justice, may establish special requirements for the behavior of the offender, which are applied along with the imposition of an administrative penalty, and instead of it, when a person who has committed an administrative offense is released from administrative responsibility.

One of the state decisions on family issues was a pilot project in 2018, which in 2019 included a specialized inter-district administrative court of the city of Nur-Sultan on facts of domestic violence. The reason for these changes was the identification in the course of the work of the causes of family breakups. Thus, the question of the expediency of these courts remains open. Nevertheless, the prevention of combating domestic violence or the reconciliation of spouses is not the business of the courts, but of law enforcement agencies and specialized organizations.

I would like to note the special role of aid organizations in the fight against domestic violence. Such organizations are created by local executive bodies with

the involvement of individuals and legal entities, in accordance with the Civil Code (prevention law).

The competence of such formations includes the provision of assistance to victims - victims, including psychological and legal assistance.

In our opinion, the issue of expanding the capabilities of these organizations should be approached more broadly. In particular, to give a clearer definition on the provision of psychological assistance, work should be carried out not only with victims, but also with aggressors.

Despite the reforms carried out in this direction, there is still no reason to say that all the tasks in this important aspect of state policy have already been resolved. The statistics and activities of specialized legal structures require further modernization, the search for an optimal model to reduce domestic violence in the Republic of Kazakhstan.

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