

ABBOZZ TA' LIĠI

msejjah

ATT biex jagħmel disposizzjonijiet speċjali dwar il-vjolenza domestika u biex jagħmel emendi konsegwenzjali u emendi oħra fil-Kodicijiet Kriminali u Ċivili

Il-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, mlaqqgħa f'dan il-Parlament, bl-awtorità ta' l-istess, hareġ b'liġi dan li ġej: -

PARTI I

Introdutturju u Definizzjonijiet

1. (1) It-titolu ta' dan l-Att hu Att ta' l-2005 dwar il-Vjolenza Domestika. Titolu.

(2) Id-disposizzjonijiet ta' dan l-Att għandhom jidhlu fis-seħh f'tali data li l-Ministru responsabbli għall-ġustizzja jista' jistabilixxi b'avviż fil-Gazzetta, u dati differenti jistgħu jiġu hekk appuntati għal disposizzjonijiet differenti u għal finijiet differenti ta' dan l-Att.

2. F'dan l-Att, sakemm ir-rabta tal-kliem ma tkunx tehtieg mod ieħor:- Tifsir.

“il-Kummissjoni” tfisser il-Kummissjoni stabbilita bl-artikolu 3 ta' dan l-Att;

“membru domestiku” tinkludi: -

(i) persuni mizzewġin jew li kienu qabel mizzewġin lil xulxin;

(ii) persuni li jghixu fl-istess dar mal-hati jew li kienu jghixu mal-hati f'perjodu ta' sena qabel ir-reat;

(iii) persuni li ż-żwieġ taghhom ikun ġie xolt jew dikjarat null;

(iv) ġenituri u t-tfal taghhom;

(v) adulti ohra li jkunu joqogħdu fl-istess dar;

(vi) persuni li jkunu, jew li kienu, gharajjes kemm formalment kemm informalment bil-hsieb li jiżżewġu;

(vii) persuni li jiġu minn xulxin jew b'konsangwinità jew b'affinità sat-tielet grad inkluż;

(viii) persuni li għandhom jew kellhom tifel bejniethom;

“il-Ministru” tfisser il-Ministru responsabbli għall-politika soċjali;

“vjolenza domestika” tfisser kull att ta' vjolenza, anki jekk verbali biss, li jsir minn membru domestiku wiehed fuq membru domestiku iehor.

PART II

Kummissjoni dwar il-Vjolenza Domestika

Twaqqif tal-Kummissjoni.

3. (1) Għandu jkun hemm Kummissjoni li tissejjah il-Kummissjoni dwar il-Vjolenza Domestika li għandha tkun komposta minn President u mhux inqas minn erba' membri ohra mahturin mill-Ministru wara konsultazzjoni ma' dawk l-aġenziji jew entitajiet pubbliċi u privati involuti fir-riċerka, il-prevenzjoni u t-trattament tal-vjolenza domestika skond kif il-Ministru jista' jidhirlu xieraq. Membru tal-Kummissjoni jista' jinhatar mill-ġdid wara li jiskadilu t-terminu tal-hatra tiegħu.

(2) Persuna ma tistax tkun kwalifikata biex ikollha kariga bhala membru tal-Kummissjoni jekk hija tkun Ministru, Segretarju Parlamentari, membru jew kandidat għall-elezzjoni fil-Kamra tad-Deputati, jew membru ta' awtorità ta' gvern lokali.

(3) Bla hsara għad-disposizzjonijiet ta' dan l-artikolu, il-kariga ta' membru tal-Kummissjoni ssir vakanti: –

(a) meta jagħlqu t-tliet snin mid-data tal-hatra jew f'dik id-data li tiġi qabel skond ma jista' jiġi speċifikat fl-istrument li bih ikun inhatar; jew

(b) mar-rizenja b'ittra indirizzata lill-Ministru; jew

(ċ) meta tinqala' xi ċirkostanza li, kieku persuna ma kienetx membru tal-Kummissjoni, kienet iġġib l-iskwalifika tagħha minn dik il-hatra.

(4) Membru tal-Kummissjoni jista', f'kull żmien, jitneħħa mill-Ministru u jkun sostitwit minn membru ieħor.

4. Il-Kummissjoni għandu jkollha l-funzjoni li tagħti parir lill-Ministru fuq kull aspekk tal-vjolenza domestika u b' mod partikolari fuq: Funzjonijiet.

(a) it-tkabbir tal-konozzenza u l-għarfien tal-vjolenza domestika u dwar il-fastidju u l-konsegwenzi li dawn iġibu u fuq il-modi u l-miżuri biex jitnaqqas l-għemil tagħhom;

(b) oqsma ta' vjolenza domestika li hu meħtieġ jew mixtieq li ssir riċerka fuqhom;

(ċ) l-istrateġiji biex tiġi esposta l-vjolenza domestika u biex jiġi faċilitat l-intervent ta' aġenziji u entitajiet pubbliċi u privati fir-rigward ta' vittmi u awturi ta' vjolenza bħal dik;

(d) l-edukazzjoni tal-pubbliku fuq l-aspetti kollha tal-vjolenza domestika;

(e) il-modi kif tiġi faċilitata l-komunikazzjoni bejn aġenziji u entitajiet pubbliċi u privati li jkunu involuti fit-tehid ta' azzjoni kontra l-vjolenza domestika;

(f) *standards* għal faċilitajiet ta' kura għal vittmi u awturi ta' vjolenza domestika, inklużi servizzi jew faċilitajiet ta' kenn pubbliċi jew privati;

(g) *standards* u protokollu għall-operaturi;

(h) il-proċeduri għall-koordinament effettiv f'livell nazzjonali ta' l-attivitajiet ta' aġenziji u entitajiet pubbliċi u privati mqabbdin fl-għoti ta' servizzi dwar materji ta' vjolenza domestika inklużi servizzi ta' sostenn;

(i) pjan komprensiv u koordinat għall-ġbir ta' informazzjoni dwar vjolenza domestika biex din tintuża mill-qrati, prosekuturi, uffiċjali għall-infurzar tal-liġi, operaturi tal-kura fis-saħha, operaturi soċjali u aġenziji u entitajiet oħra b'mod li tiġi protetta l-identità tal-vittmi ta' vjolenza domestika;

(j) l-żvilupp ta' pjan komprensiv għal programm multi-dixxiplinarju ta' prevenzjoni attiva u ta' intervent kmieni;

(k) it-tahriġ speċjalizzat għall-gruppi professjonali involuti;
u

(l) il-konsultazzjoni li ssir u nisġa ta' komunikazzjoni ma' entitajiet nazzjonali u internazzjonali rilevanti oħra.

Laqghat.

5. (1) Il-Kummissjoni għandha tiltaqa' fi żmien xahar minn meta titwaqqaf u, wara, daqstant spiss daqs kemm ikun meħtieġ jew spedjenti.

(2) Il-Kummissjoni għandha titlaqqa' mill-President fuq inizjattiva tiegħu nnifsu jew wara li ssirlu talba minn tnejn mill-membri l-oħra tal-Kummissjoni.

(3) Il-Kummissjoni ma għandhiex taġixxi kemm-il darba ma jkunx hemm kworum preżenti magħmul mill-President u mhux inqas minn żewġ membri oħra.

(4) Id-deċiżjonijiet tal-Kummissjoni għandhom jgħaddu b'maġġoranza sempliċi tal-voti tal-membri preżenti u f'każ ta' parità ta' voti, il-President għandu jkollu u jeżerċita t-tieni vot jew vot deċiżiv.

(5) Kull vakanza li jista' jkun hemm fost il-membri tal-Kummissjoni ma għandhiex tinvalida l-proċeduri tal-Kummissjoni.

(6) Bla hsara għad-disposizzjonijiet ta' dan l-Att, il-Kummissjoni tista' tirregola l-proċedura tagħha stess.

Rapporti.

6. Sa l-aħhar ta' Marzu tas-sena li tiġi minnufih wara s-sena tat-twaqqif tagħha, il-Kummissjoni għandha tippubblika rapport ta' l-attivitajiet kollha tagħha u għandha tibqa' tagħmel rapport bħal dak sa l-aħhar ta' Marzu ta' kull sena li tiġi wara. Kopja tar-rapport għandha tintbagħat lill-Ministru li għandu, mhux aktar tard minn erba' ġimgħat wara li jirċievi r-rapport, iqiegħed kopja tiegħu fuq il-Mejda tal-Kamra b'dan illi jekk il-Kamra ma tkunx qegħda tiltaqa', allura dak ir-rapport għandu jitqiegħed sa mhux aktar tard minn erba' ġimgħat wara li l-Kamra terġa' tibda tiltaqa'.

7. Il-Ministru jista', kull meta l-Kummissjoni titolbu, jahtar persuna jew jassenja ufficjal pubbliku biex jgħinha, f'kapacità konsultiva, għall-fini ta' l-eżerċizzju ta' kull wahda mill-funzjonijiet tagħha taht dan l-Att.

Persuni biex jgħinu lill-Kummissjoni.

8. (1) Għandu jkun hemm Segretarju tal-Kummissjoni li jkun persuna mahtura bhala tali mill-Ministru jew ufficjal pubbliku assenjat mill-Ministru biex jaqdi l-funzjonijiet ta' Segretarju.

Segretarju u persunal.

(2) Il-Kummissjoni għandu jkollha wkoll dak il-persunal l-iehor skond ma l-Ministru jista' jqis mehtieg u li huwa jahtar jew jassenja kif hawn qabel imsemmi.

PARTI III **Aġenzija Msemmija**

9. (1) Il-Ministru għandu jsemmi organizzazzjoni wahda jew aktar, istituzzjonijiet jew korpi ohra li magħhom ikunu saru arrangamenti kif provdut fis-subartikolu (2) bhala l-aġenzija li tkun responsabbli għall-organizzazzjoni ta' programmi ta' prevenzjoni, terapija u, jew ta' kura għal vittmi u awturi ta' vjolenza domestika.

Aġenziji msemmija.

(2) Il-Ministru għandu jassenja dawk is-servizzi li għandhom jiġu provduti mill-organizzazzjoni, istituzzjoni jew korp imsemmija.

(3) L-arrangamenti msemmija fis-subartikolu (1) għandhom jispeċifikaw is-servizzi li l-organizzazzjoni, istituzzjoni jew korp iehor ikunu mistennija li jipprovdu sakemm itulu l-arrangamenti u li għandhom jinkludu dawn li ġejjin: -

(a) programmi ta' prevenzjoni, terapija u, jew ta' kura għal vittmi u awturi ta' vjolenza domestika;

(b) faċilitajiet ta' linja ta' komunikazzjoni ta' għajnuna pubblika biex ikun hemm aċċess ta' emerġenza għal servizzi ta' appoġġ speċjalizzati f'dawk l-oqsma relatati mal-vjolenza domestika;

(ċ) esperti li jivvalutaw xi jkun l-htigiet ta' vittmi tal-vjolenza domestika, inkluż l-iżvilupp ta' pjan ta' kura għal kull persuna riferita;

(d) akkomodazzjoni mkennija għal vittmi ta' vjolenza domestika, inkluża dik li tinghata bi shab ma' organizzazzjonijiet,

istituzzjonijiet jew korpi ohra li jipprovdu akkomodazzjoni bhal dik;

(e) il-ġbir u t-tixrid lil persuni u korpi li jkollhom interess ta' dokumentazzjoni fuq id-drittijiet li għandhom il-vittmi tal-vjolenza domestika u fuq ir-rimedji u s-servizzi disponibbli għalihom;

(f) il-ġbir ta' informazzjoni dwar il-vjolenza domestika biex din tintuża fil-Qrati, minn prosekuturi, uffiċjali li jinfurzaw il-liġi, operaturi fil-kura tas-saħħa, haddiema soċjali u aġenziji u entitajiet ohra, b'mod li tkun protetta l-identità tal-vittmi tal-vjolenza domestika.

(4) (a) L-arranġamenti msemmija fis-subartikolu (1) għandhom ukoll jipprovdu għall-iffinanzjar mill-Ministru tas-servizzi miftiehma ma' l-organizzazzjoni, istituzzjoni jew korp ieħor.

(b) L-aġenzija msemmija għandha żżomm il-fondi msemmija fil-paragrafu (a) separatament mill-fondi l-oħra ta' l-aġenzija, li għandha żżomm kif imiss kotba tal-kontijiet relattivi awditjati minn awdituri mahturin minnha bi ftehim mal-Ministru u li barra minn hekk ikunu jistgħu jiġu awditjati mill-Awditur Ġenerali.

(5) L-aġenzija msemmija għandha, sa mhux aktar tard minn tliet xhur wara li taghlaq kull sena finanzjarja, tghaddi lill-Ministru: -

(a) kopja tal-kontijiet annwali kif ċertifikati mill-awdituri;

(b) rapport fuq il-hidma ta' l-aġenzija matul is-sena.

(6) Ir-rapport imsemmi fis-subartikolu (5) (b) għandu jitqiegħed fuq il-Mejda tal-Kamra mill-Ministru sa mhux aktar tard minn sitt ġimgħat wara li jirċevih, jew meta l-Kamra f'dak il-perjodu ma tkunx qegħda tiltaqa' mhux aktar tard mit-tieni ġimgħa wara li l-Kamra terġa' tibda tiltaqa'.

(7) Kull membru, uffiċjal, impjegat jew membru tal-persunal ta' aġenzija msemmija għandu jitqies bhala uffiċjal pubbliku għall-finijiet ta' l-artikolu 92 tal-Kodiċi Kriminali.

PARTI IV
Emendi fil-Kodiċi Kriminali, Kap.9

10. Fl-artikolu 87(1)(g) tal-Kodiċi Kriminali, hawn aktar il quddiem f'din il-Parti msejjah "il-liġi prinċipali", minflok il-kliem "tas-sess ta' dik il-persuna." ghandhom jidhlu l-kliem "tas-sess ta' dik il-persuna;" u immedjatament wara ghandu jidhol dan il-paragrafu ġdid li ġej:

Emenda ta' l-artikolu 87 tal-Kodiċi Kriminali, Kap. 9.

“(h) jekk id-delitt ikun sar fuq il-persuna tal-missier, l-omm jew fuq xi persuna minn dawk imsemmija fil-paragrafu (h) ta' l-artikolu 202.”.

11. F'artikolu 202 tal-liġi prinċipali, minnufih wara l-paragrafu (g) ghandhom jiżdiedu dawn iż-żewġ paragrafi ġodda li ġejjin: -

Emenda ta' l-artikolu 202 tal-liġi prinċipali.

“(h) meta d-delitt isir fuq il-persuna ta’:

(i) il-konjuġi; jew

(ii) l-hu jew l-oht; jew

(iii) axxendent jew dixxendent naturali; jew

(iv) xi persuna ohra li jkollha jew li kellha tarbija komuni mal-hati; jew

(v) xi persuna ohra li tkun qeghda tghix fl-istess dar bhall-hati jew li kienet qeghda tghix mal-hati matul perjodu ta' sena qabel ir-reat; jew

(vi) persuna ohra li tkun jew kienet kemm formalment kemm informalment gharusa bil-hsieb li tizzewweg; jew

(vii) persuni ohra li jiġu minn xulxin mid-demmi jew bi żwieġ sat-tielet grad inklużivament:

Iżda li f'dan il-paragrafu "konjuġi" tinkludi lill-persuna li ż-żwieġ taghha mal-hati jkun ġie xolt jew dikjarat null;

(i) "meta d-delitt isir quddiem minuri jew dan ikun jista' jisma' x'ikun qed isir.”.

Emenda ta' l-artikolu 221 tal-liġi prinċipali.

12. Fis-subartikolu (4) ta' l-artikolu 221 tal-liġi prinċipali, minflok il-kliem “msemmin fl-artikolu 222 (1) (b).” għandhom jidhlu l-kliem “msemmin fl-artikolu 222 (1) (a) u (b).”.

Emenda ta' l-artikolu 222 tal-liġi prinċipali.

13. Fil-paragrafu (a) tas-subartikolu (1) ta' l-artikolu 222 tal-liġi prinċipali, minflok il-kliem “tal-missier jew ta' l-omm naturali;” għandhom jidhlu l-kliem “tal-missier jew ta' l-omm naturali, jew fuq kull persuna msemminja fis-subartikolu (h) ta' l-artikolu 202;”.

Sostituzzjoni tas-Sub-titolu IX tat-Titolu VIII tal-liġi prinċipali.

14. Minflok is-Sub-titolu li hemm minnufih qabel l-artikolu 249 tal-liġi prinċipali, għandu jidhol dan il ġej:

“FUQ IT-THEDDID, VJOLENZA PRIVATA U FASTIDJU”

Żjeda ta' l-artikoli 251A, 251B u 251C godda mal-liġi prinċipali.

15. Minnufih wara l-artikolu 251 tal-liġi prinċipali għandhom jiddahhlu l-artikoli godda li ġejjin: -

“Il-fastidju.”

251A. (1) Persuna li ġġib ruhha: -

(a) b' mod li jaghti fastidju lil persuna ohra, u

(b) b' mod li tkun taf jew ikun imissha tkun taf li dan ikun ta' fastidju għal dik il-persuna,

ikun hati ta' reat taht dan l-artikolu.

(2) Għall-fini ta' dan l-artikolu, persuna li tkun qeghda ġġib ruhha b' mod dubjuż imissha tkun taf li dik l-imġieba tammonta għal fastidju ta' persuna ohra jekk fil-qjies ta' persuna raġonevoli jkollha l-istess informazzjoni din kienet kieku tahseb li dik l-imġieba kienet tammonta għal fastidju tal-persuna l-ohra.

(3) Persuna akkuzata b' reat taht dan l-artikolu tista' ġġib prova li –

(a) l-imġieba taghha kienet dovuta bl-iskop li timpedixxi jew tikxef xi delitt; jew

(b) l-imġieba taghha kienet dovuta taht xi liġi, regolament jew regola, jew biex tikkonforma ruhha ma' xi kondizzjoni jew htieġa imposta minn xi persuna taht xi liġi; jew

(c) fiċ-ċirkostanzi partikolari dik l-imġieba kienet wahda raġonevoli.

(4) Persuna misjuba hatja ta' reat taht dan l-artikolu tista' tehel il-piena ta' prigunerija ghal żmien minn xahar sa tliet xhur jew multa ta' mhux inqas minn tliet mitt lira u mhux iżjed minn elf lira, jew dik il-multa u prigunerija flimkien:

Iżda l-piena ghandha tiżdied bi grad wiehed meta r-reat isir kontra xi persuna msemmija fis-subartikolu (1) ta' l-artikolu 222.

Meta oħrajn jibżgħu li se tintuża vjolenza kontrihom.

251B. (1) Persuna li l-imġieba tagħha tikkaguna lil haddiehor jibża' li se tintuża vjolenza kontrih jew kontra l-proprjetà tiegħu jew kontra l-persuna jew il-proprjetà ta' xi hadd mill-axxendenti, dixxendenti, aħwa subien jew bniet jew xi persuna msemmija fis-subartikolu (1) ta' l-artikolu 222 tkun hatja ta' reat jekk hija tkun taf jew imissha tkun taf li l-imġieba tagħha se tikkaguna lil xi hadd iehor hekk jibża' kull darba minn dawk l-okkażjonijiet, u tista' tehel il-piena ta' prigunerija ghal żmien minn xahar sa tliet xhur jew multa ta' mhux inqas minn tliet mitt lira u mhux iżjed minn elf lira, jew dik il-multa u prigunerija flimkien.

(2) Għall-finijiet ta' dan l-artikolu, il-persuna li l-imġieba tagħha tkun wahda dubjuża jmissha tkun taf li tkun se tikkaguna biża' f'haddiehor li ser tintuża vjolenza kontrih f'xi okkażjoni jekk persuna raġonevoli li jkollha l-istess informazzjoni kieku taħseb li dik l-imġieba tkun ser tikkaguna biża' fil-persuna l-oħra f'dik l-okkażjoni.

(3) Persuna akkużata b'reat taht dan l-artikolu tista' gġib prova li -

(a) l-imġieba tagħha kienet adottata fiċ-ċirkostanzi msemmija fil-paragrafi (a) jew (b) tas-subartikolu (3) ta' l-artikolu 251A; jew

(b) l-imġieba adottata kienet wahda raġonevoli għall-harsien tagħha nnifisha jew ta' haddiehor jew għall-harsien tal-proprjetà tagħha jew ta' haddiehor.

Tifsir fl-artikoli 251A u 251B.

251C. F'artikoli 251A u 251B ta' dan il-Kodiċi riferenzi għall-ghoti ta' fastidju lil persuni jinkludu meta persuna tinghata qata' jew tiġi mdejqa.”.

16. Fl-artikolu 331 tal-liġi prinċipali, minnufih wara l-kliem “tal-persuna” għandhom jiddaħhlu l-kliem “jew b'theddida ta' omiċidju jew ta' offiża fuq il-persuna”.

Emenda ta' l-artikolu 331 tal-liġi prinċipali.

Żieda ta' artikolu ġdid 382A mal-liġi prinċipali.

17. Immedjatament wara l-artikolu 382 tal-liġi prinċipali għandu jżiddied dan l-artikolu ġdid li ġej: -

“Ordnijiet ta' Trażżin.

382A. (1) Mingħajr preġudizzju għas-setgħat tagħha taħt id-disposizzjonijiet ta' l-artikoli li ġejjin ta' dan is-Sub-titolu, meta l-qorti tqis li jkun espedjenti li hekk tagħmel għal xi raġuni msemmija fis-subartikolu (1) ta' l-artikolu 412C, il-qorti tista', meta tagħti sentenza kontra l-akkużat, flimkien ma' kull piena li tista' tagħti lill-hati, tagħmel ordni (hawn aktar il quddiem imsejha “ordni ta' trażżin”) li tista' tagħti effett għal kull ma hemm fis-subartikolu (3) ta' l-artikolu 412C imsemmi.

(2) Ordni ta' trażżin għandha tibqa' fis-seħħ għal dak il-perjodu, li ma jkunx iżjed minn tliet snin, kif speċifikat mill-qorti li tista' tordna li dak il-perjodu jibda għaddej mid-data ta' l-iskadenza jew mahfra tal-piena. Id-disposizzjonijiet tas-subartikolu (6) ta' l-artikolu 412C għandhom *mutatis mutandis* ukoll japplikaw għal ordni ta' trażżin.

(3) Jekk mingħajr skuża raġonevoli il-hati jikser xi projbizzjoni jew restrizzjoni imposta fuqu minn ordni taħt dan l-artikolu, huwa jkun hati ta' reat u jista', meta jinsab hati jehel multa ta' elf lira Maltija jew priġunerija ta' mhux iżjed minn sitt xhur jew dik il- multa u priġunerija flimkien.”.

Emenda ta' l-artikolu 383 tal-liġi prinċipali.

18. Fis-subartikolu (2) ta' l-artikolu 383 tal-liġi prinċipali, minflok il-kliem “hames liri” għandhom jidhlu l-kliem “hamsin lira” u minflok il-kliem “mitt lira” għandhom jidhlu l-kliem “elf lira”.

Żieda ta' artikoli ġodda 412C u 412D mal-liġi prinċipali.

19. Minnufih wara l-artikolu 412B tal-liġi prinċipali għandu jżiddied dan l-artikolu ġdid li ġej: -

“Ordnijiet ta' Protezzjoni.

412C (1) Meta persuna (hawn aktar il quddiem f'dan l-artikolu u fl-artikolu 412D msejha “l-akkużat”) tkun giet mixlija jew akkużata b'reat quddiem il-Qorti tal-Maġistrati kemm bhala qorti ta' inkjesta kemm bhala qorti ta' ġudikatura kriminali, il-qorti tista', minhabba f'raġunijiet motivati, bl-iskop li tipprovdi għas-sigurtà tal-persuna offiża jew individwi ohra jew għaż-żamma ta' l-ordni pubblika, jew għall-iskop ta' protezzjoni tal-persuna leża jew ta' individwi ohra minn fastidju jew imġieba ohra li tikkaguna biża' ta' vjolenza, tohroġ ordni ta' protezzjoni kontra l-akkużat.

(2) Ordni ta' protezzjoni tista' timponi kull restrizzjoni jew projbizzjoni fuq l-akkużat li jistgħu jidhru

lill-qorti bhala mehtieġa jew mixtieqa fiċ-ċirkostanzi sabieq jingħata effett lil kull skop minn dawk imsemmija fis-subartikolu (1).

(3) Bla ma tiġi limitata x-xorta ta' l-ordnijiet li jistgħu jinħarġu taht is-subartikolu (1), ordni ta' protezzjoni tista' tagħmel dan li ġej kollu jew xi haġa biss minnu: -

(a) tipprojbixxi jew tirrestringi li l-akkużat javviċina lill-persuna offiża jew lil xi individwu iehor speċifikat fl-ordni; jew

(b) tipprojbixxi jew tirrestringi l-aċċess mill-akkużat, għal perjodu ta' mhux iżjed minn sitt xhur, ġewwa fond fejn il-persuna offiża jew xi individwu iehor speċifikat fl-ordni, tkun qegħda tghix, taħdem jew tiffrekwenta wkoll jekk l-akkużat ikollu xi interess legali f'dak il-fond; jew

(ċ) tipprojbixxi lill-akkużat milli jikkuntattja jew jimmolesta lill-persuna offiża jew lil xi individwu iehor speċifikat fl-ordni.

(4) Qabel ma tohroġ l-ordni, il-qorti għandha tqis:

(a) il-htieġa li tiżgura li l-persuna offiża jew xi individwu iehor speċifikat fl-ordni jkunu protetti minn kull dannu jew molestja; u

(b) il-benesseri ta' tfal jew dipendenti ohra li jistgħu jintlaqtu mill-ordni; u

(ċ) il-htieġiet ta' akkommodazzjoni tal-persuni kollha li jistgħu jintlaqtu mill-ordni, b'mod partikolari tal-persuna offiża, it-tfal tagħha jew id-dipendenti l-ohra tagħha; u

(d) kull tbatija li tista' tkun kaġunata lill-akkużat jew lil xi persuna ohra minhabba li tkun saret l-ordni; u

(e) jekk l-akkużat ikunx irid jew le li jingħata dak it-trattament li l-qorti jista' jidhrilha li jkun xieraq; u

(f) kull materja ohra li, fiċ-ċirkostanzi tal-każ, il-qorti jidhrilha li tkun rilevanti:

Iżda ghandha tinghata attenzjoni partikolari lill-materji li jinsabu fil-paragrafi (a), (b) u (e).

(5) Ordni ta' protezzjoni ghandha tibqa' fis-sehh ghal perjodu, ta' mhux aktar minn tliet snin, speċifikat mill-qorti, iżda li jista' jiġi revokat jew estiż ghal perjodi ulterjuri.

(6) Kull parti fi proċedimenti li fihom tkun inharġet ordni taht dan l-artikolu jew kull individwu iehor imsemmi fl-ordni, jista' jagħmel rikors quddiem il-qorti f'kull waqt għall-estensjoni, varjazzjoni jew revoka ta' l-ordni u wara li l-partijiet kollha jkunu ngħataw l-opportunità li jinstemghu, il-qorti ghandha, meta tiġi biex tiddetermina jekk testendix, tvarjax jew tirrevokax l-ordni, tqis il-materji speċifikati fis-subartikolu (4).

(7) Jekk mingħajr skuża raġonevoli l-akkużat jikser xi projbizzjoni jew restrizzjoni imposta fuqu b'ordni taht dan l-artikolu, huwa jkun hati ta' reat u jista', meta jinsab hati jehel multa ta' elf lira Maltija jew prigunerija ta' mhux iżjed minn sitt xhur jew dik il-multa u prigunerija flimkien.

(8) Il-qorti tista' wkoll tordna li kull arma regolari jew arma irregolari, kif imfissra fl-artikolu 64, jiġu depożitati għand ir-registratur tal-Qorti.

Ordnijiet ta' Trattament.

412D. (1) Flimkien ma' ordni ta' protezzjoni, jew separatament minnha, taht l-artikolu 412C, u sakemm il-qorti sodisfatta li jkunu saru jew li jistgħu jsiru arrangamenti adatti għal trattament, il-qorti tista' tohroġ ordni (hawn aktar il quddiem imsejha "ordni ta' trattament") li tkun tehtieg li persuna taċċetta li jsirilha trattament bla hsara għal dawk il-kondizzjonijiet li l-qorti jista' jidhrilha adatti li tniżżel fl-ordni.

Iżda meta persuna tinsab hatja ta' reat, tista' ssir l-ordni ta' trattament mill-qorti bil-kunsens tal-hati jew mingħajru u fil-każ ta' persuna akkużata b'reat, ordni ta' trattament tista' ssir biss bil-kunsens ta' l-akkużat.

Kap. 446.

(2) It-trattament jista' jkun ta' kull xorta minn dawk speċifikati fis-subartikolu (5) ta' l-artikolu 7 ta' l-Att dwar il-*Probation*.

(3) Id-disposizzjonijiet tas-subartikoli (5) u (6) ta' l-artikolu 412C għandhom japplikaw għal ordni li ssir taht dan l-artikolu.

(4) Jekk f'xi żmien matul il-perjodu li fih l-ordni tkun fis-seħh tingieb prova ghas-sodisfazzjon tal-qorti li l-persuna tkun naqset milli tikkonforma ruhha ma' xi rekwiżit jew kondizzjoni ta' l-ordni, il-qorti tista' twahhal ammenda ta' mhux iżjed minn mitt lira.”.

20. Fil-paragrafu (d) ta' l-artikolu 543 tal-liġi prinċipali, minflok il-kliem “jew is-soċjeta` in ġenerali.” ghandhom jidhlu l-kliem “jew il-komunità in ġenerali;” u minnufih wara għandu jidhol dan li ġej:

Emenda ta' l-artikolu 543 tal-liġi prinċipali.

“(e) fil-każ ta' xi reat li jinvolvi vjolenza domestika:

Iżda għall-finijiet ta' dan l-artikolu “vjolenza domestika” għandu jkollha l-istess tifsira mogħtija lilha bl-artikolu 2 ta' l-Att dwar il-Vjolenza Domestika:

Iżda wkoll għandu jkun legali li, wara li jkunu nbdew proċeduri fil-qorti, vittma allegata ta' reat li jinvolvi vjolenza domestika jista' jitlob lill-qorti li twaqqaf il-proċeduri kontra l-awtur allegat, u meta ssir talba bħal dik il-qorti tista' tiddeċiedi u tordna li l-proċeduri kontra l-awtur allegat jitkomplew, filwaqt li tinghata konsiderazzjoni partikolari għall-aħjar interessi tal-minuri involuti, u għandha tordna li dik it-talba u deċiżjoni jiġu reġistrati fl-inkartamenti tal-każ.”.

21. Minnufih wara l-proviso għall-artikolu 544 tal-liġi prinċipali, għandu jidhol dan il-proviso ġdid li ġej:

Emenda ta' l-artikolu 544 tal-liġi prinċipali.

“Iżda wkoll meta ma' xi wiehed minn dawk id-delitti isir ukoll reat li jinvolvi l-vjolenza domestika, l-azzjoni kriminali għandha tittiehed indipendentment mill-ilment tal-parti privata, u għall-finijiet ta' dan l-artikolu “vjolenza domestika” għandu jkollha l-istess tifsira mogħtija lilha bl-artikolu 2 ta' l-Att dwar il-Vjolenza Domestika.”.

PARTI V

Emendi fil-Kodiċi Ċivili, Kap. 16

22. Minflok l-artikolu 37 (2) tal-Kodiċi Ċivili, hawn iżjed 'il quddiem f'din il-Parti msejjah “il-liġi prinċipali”, għandu jidhol dan li ġej:

Emenda ta' l-artikolu 37 tal-Kodiċi Ċivili, Kap.16.

“(2) Ir-rikors li jkun fih it-talba msemmija fil-proviso ghas-subartikolu (1) għandha tkun debitament appuntata ghas-smigh mill-qorti u għandha tiġi notifikata lill-konvenut flimkien ma' l-avviż ta' dik is-seduta:

Iżda meta jkun hemm involuta l-vjolenza domestika, ir-rikors imsemmi ghandu jiġi appuntat fi żmien erbat ijiem u l-qorti tista', b'inizjattiva tagħha stess qabel ma tisma' lill-partijiet jew wara, tohroġ ordni ta' protezzjoni taht l-artikolu 412C tal-Kodiċi Kriminali u, jew ordni ta' trattament taht l-artikolu 412D ta' l-istess Kodiċi, u d-disposizzjonijiet ta' dawk l-artikoli għandhom japplikaw *mutatis mutandis* għal ordni mahruġa taht dan l-artikolu bhallikieku din kienet ordni mahruġa taht l-artikolu korrispondenti ta' dak il-Kodiċi:

Iżda wkoll għall-finijiet ta' dan l-artikolu u ta' l-artikolu 39, "vjolenza domestika" għandu jkollha l-istess tifsira mogħtija lilha bl-artikolu 2 ta' l-Att dwar il-Vjolenza Domestika."

Emenda ta'
l-artikolu 39
tal-liġi prinċipali.

23. Minnufih wara l-artikolu 38 tal-liġi prinċipali għandu jidhol dan l-artikolu li ġej:

"Ordni ta'
Protezzjoni
f'kawża għal
firda
personali.

39. Meta tkun ġiet prezentata kawża għal firda personali minn konjuġi u jkunu nġiebu provi ta' attijiet ta' vjolenza domestika, il-qorti tista', jew wara li xi waħda mill-partijiet tagħmel rikors jew fuq inizjattiva tagħha stess sabiex tiproteġi s-sigurtà tal-partijiet involuti jew fl-aħjar interessi tat-tifel jew tat-tfal jew ta' xi dipendenti minuri ohra ta' wiehed mill-konjuġi, tohroġ ordni ta' protezzjoni taht l-artikolu 412C tal-Kodiċi Kriminali u, jew ordni ta' trattament taht l-artikolu 412D ta' l-istess Kodiċi u d-disposizzjonijiet ta' dawk l-artikoli għandhom ikunu *mutatis mutandis* japplikaw għal ordni mahruġa taht dan l-artikolu bhallikieku dik kienet ordni mahruġa taht l-artikolu korrispondenti ta' dak il-Kodiċi."

Għanijiet u Raġunijiet

L-għan ta' dan l-Abbozz huwa sabiex ikun hemm provvedimenti speċjali dwar il-vjolenza domestika, sabiex titwaqqaf Kummissjoni dwar il-Vjolenza Domestika, u sabiex jipprovdi għal semmija ta' aġenzija waħda jew aktar li tkun responsabbli għall-organizzazzjoni ta' programmi ta' prevenzjoni, terapija u, jew kura.

L-Abbozz jipprovdi wkoll biex isiru emendi konsegwenzjali u emendi ohra għall-Kodiċijiet Kriminali u Ċivili.

**A BILL
entitled**

AN ACT to make special provision for domestic violence and to make consequential and other amendments to the Criminal and Civil Codes

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows: -

**PART I
Introductory and Definitions**

1. (1) The title of this Act is the Domestic Violence Act, 2005. Title.

(2) The provisions of this Act shall come into force on such date as the Minister responsible for justice may by notice in the Gazette appoint, and different dates may be so appointed for different provisions and for different purposes of this Act.

2. In this Act, unless the context otherwise requires:- Definitions.

“the Commission” means the Commission established by article 3 of this Act;

“domestic violence” means any act of violence, even if only verbal, perpetrated by a household member upon another household member;

“household member” includes: -

- (i) persons married or formerly married to each other;
- (ii) persons living in the same household as the offender or who had lived with the offender within a period of one year preceding the offence;
- (iii) persons whose marriage has been dissolved or declared null;
- (iv) parents and their children;
- (v) other adults sharing the same household;
- (vi) persons who are, or have been, formally or informally engaged with a view to get married;
- (vii) persons who are related to each other either by consanguinity or affinity up to the third degree inclusively;
- (viii) persons having or having had a child in common;

“the Minister” means the minister responsible for social policy.

PART II

Commission on Domestic Violence

Establishment of the Commission.

3. (1) There shall be a Commission to be known as the Commission on Domestic Violence which shall be composed of a Chairman and not less than four other members appointed by the Minister after consulting such public and private agencies or entities involved in the research, prevention and treatment of domestic violence as the Minister may deem appropriate. A member of the Commission may be re-appointed on the expiration of his term of office.

(2) A person shall not be qualified to hold office as a member of the Commission if he is a Minister, Parliamentary Secretary, a member of or a candidate for election to the House of Representatives, or a member of a local government authority.

(3) Subject to the provisions of this article, the office of a member of the Commission shall become vacant: –

(a) at the expiration of three years from the date of appointment or at such earlier time as may be specified in the instrument by which he was appointed; or

(b) upon resignation by a letter addressed to the Minister;
or

(c) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(4) A member of the Commission may, at any time, be removed by the Minister and substituted by another member.

4. The Commission shall have the function of advising the Minister on all aspects of domestic violence and in particular on- Functions.

(a) increasing the awareness and understanding of domestic violence and harassment and their consequences and on ways and means to reduce their incidence;

(b) areas of domestic violence on which research is necessary or desirable;

(c) strategies to expose domestic violence and to facilitate the intervention of public and private agencies and entities with respect to victims and perpetrators of such violence;

(d) educating the public on all aspects of domestic violence;

(e) ways to facilitate communication between public and private agencies and entities involved in action against domestic violence;

(f) standards for care facilities for victims and perpetrators of domestic violence, including public or private shelter services or facilities;

(g) standards and protocols for practitioners;

(h) procedures for the effective co-ordination on a national level of the activities of public and private agencies and entities engaged in the giving of services on domestic violence issues including support services;

(i) a comprehensive and co-ordinated plan for the collection of data concerning domestic violence for use by the courts, prosecutors, law enforcement officers, health care practitioners, social workers and other agencies and entities in a manner that protects the identity of victims of domestic violence;

(j) developing a comprehensive plan for a multi disciplinary approach of active prevention and early intervention;

(k) specialized training for professional groups involved; and

(l) consulting and networking with other relevant national and international entities.

Meetings.

5. (1) The Commission shall meet within one month from its constitution and as often as may be necessary or expedient thereafter.

(2) The meetings of the Commission shall be called by the Chairman on his own initiative or at the request of any two of the other members of the Commission.

(3) The Commission shall not act unless a quorum consisting of the Chairman and not less than two other members is present.

(4) The decisions of the Commission shall be adopted by a simple majority of the votes of the members present and in the event of an equality of votes the Chairman shall have and exercise a second or casting vote.

(5) Any vacancy among the members of the Commission shall not invalidate the proceedings of the Commission.

(6) Subject to the provisions of this Act, the Commission may regulate its own procedure.

Reports.

6. By the end of March of the year immediately following the year of its constitution, the Commission shall publish a report of all its activities and shall continue to draw up such a report by the end of March of every year thereafter. A copy of the report shall be sent to the Minister who shall, by not later than four weeks after receipt of the report, lay a copy thereof on the Table of the House so however that if the House is not in session, then such report shall be laid by not later than four weeks after the House resumes its session.

Persons to assist the Commission.

7. The Minister may, whenever the Commission so requests, appoint a person or designate a public officer to assist it, in a consultative capacity, for the purpose of exercising any of its functions under this Act.

8. (1) There shall be a Secretary to the Commission who shall be a person appointed as such by the Minister or a public officer designated by the Minister to perform the functions of Secretary. Secretary and staff.

(2) The Commission shall also have such other staff as the Minister may deem necessary and appoint or designate as aforesaid.

PART III Designated Agency

9. (1) The Minister shall designate one or more organizations, institutions or other bodies with which arrangements have been made as provided in sub-article (2) as the agency responsible for the provision of preventive, therapeutic and, or treatment programmes for victims and perpetrators of domestic violence. Designated agencies.

(2) The Minister shall assign those services to be provided by the designated organization, institution or other body.

(3) The arrangements referred to in sub-article (1) shall lay down the services which the organization, institution or other body will be expected to provide for the duration of the arrangements and which shall include the following: -

(a) preventive, therapeutic and, or treatment programmes for victims and perpetrators of domestic violence;

(b) public help-line facilities for emergency access to specialised support services in those areas related to domestic violence;

(c) expertise for the assessment of the needs of victims of domestic violence, including the development of a care plan for each referral;

(d) sheltered accommodation for victims of domestic violence, including in partnership with other organizations, institutions or other bodies providing similar accommodation;

(e) the compilation and dissemination to interested persons and bodies of documentation on the rights of victims of domestic violence and on the remedies and services available to them;

(f) the collation of data concerning domestic violence for use by the Courts, prosecutors, law enforcement officers, health care practitioners, social workers and other agencies and entities,

in a manner that protects the identity of victims of domestic violence.

(4) (a) The arrangements referred to in sub-article (1) shall also provide for funding by the Minister of the services agreed upon with the organization, institution or other body.

(b) The designated agency shall keep the funds referred to in paragraph (a) separately from the other funds of the agency, which shall keep proper books of account thereof audited by auditors appointed by it with the concurrence of the Minister and which shall moreover be subject to audit by the Auditor General.

(5) The designated agency shall, by not later than three months after the close of each financial year, transmit to the Minister: -

(a) a copy of the annual accounts certified by the auditors;

(b) a report on the operations of the agency during the year.

(6) The report referred to in sub-article (5) (b) shall be laid on the Table of the House by the Minister by not later than six weeks after its receipt, or where the House is during the period not in session by not later than the second week after the House resumes its sittings.

(7) Any member, officer, employee or member of staff of a designated agency shall be deemed a public officer for the purposes of article 92 of the Criminal Code.

PART IV Amendments to the Criminal Code, Cap.9

Amendment of article 87 of the Criminal Code, Cap.9.

10. In article 87(1)(g) of the Criminal Code, hereinafter in this Part referred to as “the principal law”, for the words “that person’s sex.” there shall be substituted the words “that person’s sex;” and immediately thereafter there shall be inserted the following new paragraph:

“(h) if the crime is committed on the person of the father, mother or on any person mentioned in paragraph (h) of article 202.”.

Amendment of article 202 of the principal law.

11. In article 202 of the principal law, immediately after paragraph (g) thereof there shall be inserted the following two new paragraphs: -

“(h) when the crime is committed on the person of:

- (i) the spouse; or
- (ii) the brother or sister; or
- (iii) a natural ascendant or descendant; or
- (iv) another person having or having had a child in common with the offender; or
- (v) another person living in the same household as the offender or who had lived with the offender within a period of one year preceding the offence; or
- (vi) another person who is or had been formally or informally engaged with a view to get married; or
- (vii) other persons who are related to each other by consanguinity or affinity up to the third degree inclusively:

Provided that in this paragraph “spouse” includes the person whose marriage with the offender has been dissolved or declared null;

- (i) when the crime is committed in the presence of, or within hearing distance of a minor.”.

12. In sub-article (4) of article 221 of the principal law, for the words “mentioned in article 222 (1) (b).” there shall be substituted the words “mentioned in article 222 (1) (a) and (b).”.

Amendment of article 221 of the principal law.

13. In paragraph (a) of sub-article (1) of article 222 of the principal law, for the words “natural father or mother;” there shall be substituted the words “natural father or mother, or on any person mentioned in sub-article (h) of article 202;”.

Amendment of article 222 of the principal law.

14. For the Sub-title immediately before article 249 of the principal law, there shall be substituted the following:

Substitution of Sub-title IX of Title VIII of the principal law.

“OF THREATS, PRIVATE VIOLENCE AND HARASSMENT”

15. Immediately after article 251 of the principal law there shall be inserted the following new articles: -

Addition of new articles 251A, 251B and 251C to the principal law.

“Harassment

251A. (1) A person who pursues a course of conduct:—

(a) which amounts to harassment of another person, and

(b) which he knows or ought to know amounts to harassment of such other person,

shall be guilty of an offence under this article.

(2) For the purpose of this article, the person whose course of conduct is in question ought to know that it amounts to harassment of another person if a reasonable person in possession of the same information would think the course of conduct amounted to harassment of the other person.

(3) It is a defence for a person charged with an offence under this article to show that –

(a) his course of conduct was pursued for the purpose of preventing or detecting crime; or

(b) his course of conduct was pursued under any enactment, regulation or rule, or to comply with any condition or requirement imposed by any person under any enactment; or

(c) in the particular circumstances the pursuit of the course of conduct was reasonable.

(4) A person guilty of an offence under this article shall be liable to the punishment of imprisonment for a term from one to three months or to a fine (*multa*) of not less than three hundred liri and not more than one thousand liri, or to both such fine and imprisonment:

Provided that the punishment shall be increased by one degree where the offence is committed against any person mentioned in sub-article (1) of article 222.

Causing others to fear that violence will be used against them.

251B. (1) A person whose course of conduct causes another to fear that violence will be used against him or his property or against the person or property of any of his ascendants, descendants, brothers or sisters or any person mentioned in sub-article (1) of article 222 shall be guilty of

an offence if he knows or ought to know that his course of conduct will cause the other so to fear on each of those occasions, and shall be liable to the punishment of imprisonment for a term from one to three months or to a fine (*multa*) of not less than three hundred liri and not more than one thousand liri, or to both such fine and imprisonment.

(2) For the purpose of this article, the person whose course of conduct is in question ought to know that it will cause another person to fear that violence will be used against him on any occasion if a reasonable person in possession of the same information would think the course of conduct would cause the other so to fear on that occasion.

(3) It is a defence for a person charged with an offence under this article to show that: –

(a) his course of conduct was pursued in the circumstances mentioned in paragraphs (a) or (b) of sub-article (3) of article 251A; or

(b) the pursuit of his course of conduct was reasonable for the protection of himself or another or for the protection of his or another's property.

Interpretation
of articles 251
A and
251B.

251C. In the articles 251A and 251B hereof references to harassing a person include alarming the person or causing the person distress.”.

16. In article 331 of the principal law, immediately after the words “of the person” there shall be inserted the words “or with a threat to kill or to inflict bodily harm”.

Amendment of
article 331 of
the principal law.

17. Immediately after article 382 of the principal law there shall be added the following new article: -

Addition of new
article 382A to
the principal law.

“Restraining
Orders.

382A. (1) Without prejudice to its powers under the provisions of the following articles of this Sub-title, where the court considers it expedient to do so for any of the purposes mentioned in sub-article (1) of article 412C, it may, in passing judgment against the accused, together with any punishment to which it may sentence the offender, make an order (hereinafter referred to as a “restraining order”) which may give effect to any thing provided in sub-article (3) of the said article 412C.

(2) A restraining order shall remain in force for such period, not exceeding three years, as specified by the court which may order that such period shall commence to run from the date of expiration or remission of the punishment. The provisions of Sub-article (6) of article 412C shall *mutatis mutandis* also apply to a restraining order.

(3) If without reasonable excuse the offender contravenes any prohibition or restriction imposed upon him by an order under this article, he shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) of one thousand Malta liri or to imprisonment not exceeding six months or to both such fine and imprisonment.”.

Amendment of article 383 of the principal law.

18. In sub-article (2) of article 383 of the principal law, for the words “five liri” there shall be substituted “fifty liri” and for the words “one hundred liri” there shall be substituted the words “one thousand liri”.

Addition of new articles 412C and 412D to the principal law.

19. Immediately after article 412B of the principal law there shall be added the following new article: -

“Protection Orders

412C. (1) Where a person (hereinafter in this article and in article 412D referred to as “the accused”) has been charged or accused with an offence before the Court of Magistrates whether as a court of inquiry or as a court of criminal judicature, the court may, on reasonable grounds, for the purpose of providing for the safety of the injured person or of other individuals or for the keeping of the public peace or for the purpose of protecting the injured person or other individuals from harassment or other conduct which will cause a fear of violence, issue a protection order against the accused.

(2) A protection order may impose any restrictions or prohibitions on the accused that appear to the court necessary or desirable in the circumstances in order to give effect to any of the purposes mentioned in sub-article (1).

(3) Without limiting the nature of the orders which may be made under sub-article (1), a protection order may do all or any of the following: -

(a) prohibit or restrict approaches by the accused to the injured person or any other individual specified in the order; or

(b) prohibit or restrict access by the accused, for a period not exceeding six months, to premises in which the injured person, or any other individual specified in the order, lives, works or frequents even if the accused has a legal interest in those premises; or

(c) prohibit the accused from contacting or molesting the injured person or any other individual specified in the order.

(4) Before making an order, the court shall take into account:

(a) the need to ensure that the injured person or other individual specified in the order is protected from injury or molestation; and

(b) the welfare of any children or any dependants who may be affected by the order; and

(c) the accommodation needs of all persons who may be affected by the order, in particular of the injured person, his children and his other dependants; and

(d) any hardship that may be caused to the accused or to any other person as a result of making the order; and

(e) the accused's willingness or otherwise to submit to such treatment as the court may deem appropriate; and

(f) any other matter that, in the circumstances of the case, the court considers relevant:

Provided that particular attention shall be given to the matters in paragraphs (a), (b) and (e).

(5) A protection order shall remain in force for a period, not exceeding three years, specified by the court, but can be revoked or extended for further periods.

(6) A party to the proceedings in which an order has been made under this article or any other individual mentioned in the order, may apply to the court at any time for the extension, variation or revocation of the order and after

all the parties have had an opportunity to be heard the court shall, in determining whether to extend, vary or revoke an order, have regard to the matters specified in sub-article (4).

(7) If without reasonable excuse the accused contravenes any prohibition or restriction imposed upon him by an order under this article, he shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) of one thousand Malta liri or to imprisonment not exceeding six months or to both such fine and imprisonment.

(8) The court may also order that any arm proper or arm improper, as defined in article 64, be deposited with the Court's registrar.

Treatment Orders.

412D. (1) Together with or separately from a protection order under article 412C, and provided the court is satisfied that proper arrangements have been made or can be made for treatment, the court may make an order (hereinafter in this article referred to as a "treatment order") requiring a person to submit to treatment subject to the conditions which the court may deem appropriate to lay down in the order.

Provided that where any person is convicted with an offence, a treatment order by the court may be made with or without the consent of the convicted person and in the case of a person accused with an offence, a treatment order may only be made with the consent of the accused.

Cap. 446.

(2) The treatment may be of any of the kinds specified in sub-article (5) of article 7 of the Probation Act.

(3) The provisions of sub-articles (5) and (6) of article 412C shall apply to an order under this article.

(4) If at any time during the period that the order is in force it is proved to the satisfaction of the court that the person has failed to comply with any of the requirements or conditions of the order, the court may impose on such person a fine (*ammenda*) not exceeding one hundred liri."

Amendment of article 543 of the principal law.

20. In paragraph (d) of article 543 of the principal law, for the words "or the community in general." there shall be substituted the words "or the community in general;" and immediately thereafter there shall be inserted the following:

“(e) in the case of any offence involving domestic violence:

Provided that for the purposes of this article “domestic violence” shall have the same meaning assigned to it by article 2 of the Domestic Violence Act:

Provided further that it shall be lawful, after proceedings have commenced before the court, for an alleged victim of an offence involving domestic violence to request the court to stay proceedings against the alleged perpetrator, and when such a request is made the court may decide and direct the continuation of proceedings against the alleged perpetrator, giving particular consideration to the best interests of any minors involved, and shall cause such request and decision to be registered in the records of the case.”.

21. Immediately after the proviso to article 544 of the principal law, there shall be inserted the following new proviso: Amendment of article 544 of the principal law.

“Provided further that where any of such crimes is accompanied with any offence involving domestic violence, criminal action shall be taken independently of the complaint of the private party, and for the purposes of this article “domestic violence” shall have the same meaning assigned to it by article 2 of the Domestic Violence Act.”.

PART V

Amendments to the Civil Code, Cap.16.

22. For article 37 (2) of the Civil Code, hereinafter in this Part referred to as “the principal law”, these shall be substituted with the following: Amendment of article 37 of the Civil Code, Cap.16.

“(2) The application containing the demand referred to in the proviso to sub-article (1) shall be duly appointed for hearing by the court and shall be served on the respondent together with the notice of such hearing:

Provided that where domestic violence is involved, the said application shall be appointed within four days and the court may, of its own motion before or after hearing the parties, issue a protection order under article 412C of the Criminal Code and, or a treatment order under article 412D of the same Code and the provisions of those articles shall *mutatis mutandis* apply to an order issued under this article as if it were an order issued under the corresponding article of the said Code:

Provided further that for the purposes of this article and of article 39, “domestic violence” shall have the same meaning assigned to it by article 2 of the Domestic Violence Act.”.

Amendment of article 39 of the principal law.

23. Immediately after article 38 of the principal law there shall be inserted the following article:

“Protection Order in lawsuit for personal separation.

39. Where a law suit for personal separation has been filed by either spouse and evidence of acts of domestic violence has been produced, the court may, either on an application of one of the parties or on its own motion in order to protect the safety of the parties involved or in the best interests of the child or children or of any other minor dependants of any of the spouses, issue a protection order under article 412C of the Criminal Code and, or a treatment order under article 412D of the same Code and the provisions of those articles shall *mutatis mutandis* apply to an order issued under this article as if it were an order issued under the corresponding article of the said Code.”.

Objects and Reasons

The object of this Bill is to make special provisions for domestic violence, to establish a Commission on Domestic Violence, and to provide for the designation of one or more agencies responsible for the organisation of preventive, therapeutic and treatment programmes.

The Bill also provides for consequential and other amendments to the Criminal and to the Civil Codes.