

# RA 9262: the Anti-Violence Against Women and their Children Act of 2004

## Frequently Asked Questions

### What is RA9262 or the Anti-Violence Against Women and Their Children Act of 2004?

It is a law the seeks to address the prevalence of violence against women and their children (VAWC) by their intimate partners like their husband or ex-husband, live-in partner or former live-in partner, boyfriend/girlfriend or ex-boyfriend/ex-girlfriend, dating partner or former dating partner.

### What is Violence Against Women and Their Children under RA9262?

It refers to any act or a series of acts committed by an intimate partner (husband, ex-husband, live-in partner, boyfriend/girlfriend, fiancé, who the woman had sexual/dating relationship):

- against a woman who is his wife, former wife;
- against a woman with whom the person has or had a sexual or dating relationship,
- against a women with whom he has a common child;
- against her child whether legitimate or illegitimate within or without the family abode,

Of which results in or is likely to result in physical, sexual, psychological harm or suffering or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty.

### What are the acts of violence which are covered under R.A. 9262?

R.A. 9262 covers several acts of violence, which are:

- **Physical Violence** – acts that include bodily or physical harm (battery)
  - causing/threatening/attempting to cause physical harm to the woman or her child;
  - placing the woman or her child in fear of imminent physical harm
- **Sexual Violence** – the acts which are sexual in nature committed against a woman or her child. It includes, but is not limited to:
  - Rape, sexual harassment, acts of lasciviousness, treating a woman or her child as a sex object, making demeaning and sexually suggestive remarks, physically attacking the sexual parts of the victim's body, forcing him or her to watch obscene publications and indecent shows or forcing the woman or her child to do indecent acts and/or make films thereof, forcing the wife and mistress/lover to live in the conjugal home or sleep together in the same room with the abuser.

- Causing or attempting to make the woman or her child to perform sexual acts (that do not constitute Rape) by use of force, threats, intimidation directed against the woman, her child, or her immediate family.
- Prostituting the woman or her child.
- **Psychological Violence** – Acts or omissions causing or likely to cause mental or emotional suffering of the victim which includes, but is not limited to the following:
  - Controlling or restricting the woman's or her child's movement or conduct
    - Threatening to or actually depriving the woman or her child of custody or access to her/his family;
    - Depriving or threatening to deprive the woman or her child of a legal right;
  - Causing mental or emotional anguish, public ridicule or humiliation to the woman or her child, e.g. repeated verbal and emotional abuse, and denial of financial support or custody or minor children or denial of access to the woman's child/children
  - Threatening or actually inflicting physical harm on oneself for the purpose of controlling the woman's actions or decisions;
  - It includes causing or allowing the victim to witness the physical, sexual or psychological abuse of a member of the family to which the victim belongs, or to witness pornography in any form or to witness abusive injury to pets or to unlawful or unwanted deprivation of the right to custody and/or visitation of common children.
  - Causing substantial emotional or psychological distress to the woman or her child:
    - Stalking or following the woman or her child in public or private places;
    - Peering in the window or lingering outside the residence or the woman or her child;
    - Entering or remaining in the dwelling or on the property of the woman or her child against her/his will;
    - Destroying the property and personal belongings or inflicting harm to animals or pets of the woman or her child;
    - Engaging in any form of harassment or violence
- **Economic Abuse** – Acts that make or attempt to make a woman financially dependent upon her abuser, which includes, but is not limited to the following:
  - Preventing the woman from engaging in any legitimate profession, occupation, business or activity except in cases wherein the other spouse/partner objects on valid, serious and moral grounds as defined in Article 73 of the Family Code;
  - Controlling the woman's own money or property; or solely controlling the conjugal or common money/properties;
  - Destroying household property;

### Define children as used under R.A. 9262.

**"Children"** refers to those below eighteen (18) years of age or older but are incapable of taking care of themselves as defined under Republic Act No. 7610. As used in this Act, it includes the biological children of the victim and other children under her care.

### Define dating relationship as used under R.A. 9262.

It is a situation wherein the parties live as husband and wife without the benefit of marriage or are romantically involved over time and on a continuing basis during the course of the relationship. A casual acquaintance or ordinary socialization between two individuals in a business or social context is not a dating relationship.

### Define sexual relations as used under R.A. 9262.

It refers to a single sexual act which may or may not result in the bearing of a common child.

### **Define “Battered Woman Syndrome” as used under R.A. 9262**

It refers to a scientifically defined pattern of psychological and behavioral symptoms found in battered women as a result of a long history of abuse.

RA 9262 acknowledges that women who have retaliated against their partner or who commit violence as a form of self-defense may have suffered from Battered Woman Syndrome (BWS). Any victim who suffers from BWS should be diagnosed by a Psychiatric expert or a clinical psychologist. This will also help the victim in obtaining a just decision in her case. The law does not allow the offender to have custody of minor children. Their care is entrusted to the woman even if she is found to have BWS.

### **Who are the persons protected by R.A. 9262?**

The law recognizes the unequal relations between a man and a woman in an abusive relationship where the woman is usually at a disadvantage.

The following are the persons who are protected by R.A. 9262:

- Wife
- Former Wife
- A woman with whom the offender has or had sexual relations with
- A woman with whom the offender has a common child with
- The legitimate or illegitimate child of the woman within or without the family abode

### **Is VAWC committed by men alone?**

Women can also be liable under the law. These are the lesbian partners/girlfriends or former partners of the victim with whom she has or had a sexual or dating relationship.

### **What if the male spouse/partner complains about abuses committed by his wife/partner?**

He may file a complaint or case under the Revised Penal Code.

### **What can women and children do under R.A. 9262?**

Under the law, the offended party may file a criminal action, or apply for a Protection Order either as an independent action or as an incident in civil or criminal action and other remedies.

### Who may file a complaint under R.A. 9262?

Any citizen having personal knowledge of the circumstances involving the commission of the crime may file a complaint because violence against women and their children is considered a **PUBLIC** crime.

### Where should cases for VAWC be filed?

Cases may be filed in the Regional Trial Court designated as **FAMILY COURT** of the place where the crime was committed. These courts have original and exclusive jurisdiction over these cases.

### What are the penalties for committing VAWC?

Offenders proven in court to be guilty of the crime shall be penalized with: imprisonment ranging from 1 month and 1 day to 20 years payment of P100,000 to P300,000 in damages mandatory psychological counseling or psychiatric treatment.

### What is the prescriptive period for a complainant to file a complaint?

The criminal complaint may be filed within twenty (20) years from the occurrence or commission for the following acts:

- Causing physical harm to the woman or her child
- Threatening to cause the woman or her child physical harm
- Attempting to cause the woman or her child physical harm
- Placing the woman or her child in fear of imminent physical harm
- Attempting to compel or compelling the woman or her child to engage in conduct which the woman or her child has the right to desist from or to desist from conduct which the woman or her child has the right to engage in, or attempting to restrict or restricting the woman's or her child's freedom of movement or conduct by force or threat of force, physical or other harm or threat of physical or other harm, or intimidation directed against the woman or her child. This shall include, but not limited to, the following acts committed with the purpose or effect of controlling or restricting the woman's or her child's movement or conduct:
  - Threatening to deprive or actually depriving the woman or her child of custody or access to her/his family
  - Depriving or threatening to deprive the woman or her children of financial support legally due her or her family, or deliberately providing the woman's children insufficient financial support
  - Depriving or threatening to deprive the woman or her child of a legal right

- Preventing the woman in engaging in any legitimate profession, occupation, business or activity, or controlling the victim's own money or properties, or solely controlling the conjugal or common money, or properties
- Inflicting or threatening to inflict physical harm on oneself for the purpose of controlling her actions or decisions
- The criminal complaint may be filed within ten (10) years from the occurrence or commission for the following acts:
  - Causing or attempting to cause the woman or her child to engage in any sexual activity which does not constitute rape, by force or threat of force, physical harm, or through intimidation directed against the woman or her child or her/his immediate family
  - Engaging in purposeful, knowing, or reckless conduct, personally or through another that alarms or causes substantial emotional or psychological distress to the woman or her child. This shall include, but not be limited to the following acts:
    - Stalking or following the woman or her child in public or private places
    - Peering in the window or lingering outside the residence of the woman or her child
    - Entering or remaining in the dwelling or on the property of the woman or her child against her/his will
    - Destroying the property and personal belongings or inflicting harm to animals or pets of the woman or her child
    - Engaging in any form of harassment or violence
  - Causing mental or emotional anguish, public ridicule or humiliation to the woman or her child, including, but not limited to, repeated verbal and emotional abuse, and denial of financial support or custody of minor children or denial of access to the woman's child/children.

### What is a protection order?

A protection order is an order issued under this act for the purpose of preventing further acts of violence against women or her child. And granting other relief as may be needed. The relief granted under a protection order serve the purpose of safeguarding the victim from further harm, minimizing any disruption in the victim's daily life, and facilitating the opportunity and ability of the victim to independently regain control of her life. The provisions of the protection order shall be enforced by law enforcement agencies.

### What are the various kinds of protection orders?

The various kinds of protection orders are:

- **Barangay Protection Orders (BPO)** refer to the protection order issued by the *Punong Barangay* ordering the perpetrator to desist from committing acts under Section 5 (a) and (b) of R.A. 9262. BPO shall be effective for 15 days.
- **Temporary Protection Orders (TPO)** refers to the protection order issued by the court on the date of the filing of the application after *ex parte* determination that such order should be issued. The court may grant in a TPO any, some or all of the reliefs mentioned in R.A. 9262 and shall be effective for thirty (30) days. The court shall order the immediate personal service of the TPO on the respondent by the court sheriff who may obtain the assistance of law enforcement agents for the service.
- **Permanent Protection Order (PPO)** refers to the protection order issued by the court after notice and hearing. The court shall not deny the issuance of protection order on the basis of the lapse of time between the act of violence and the filing of the application. PPO shall be effective until revoked by the court upon application of the person in whose favor it was issued.

### Where can I apply for a protection order?

Application for a protection may be filed with the appropriate Regional Trial Court/Family Court or Municipal Court where the petitioner resides in case of Temporary Protection Order (TPO) and Permanent Protection Order (PPO), respectively. Barangay Protection Order may be applied for in the Barangay where the applicant resides or in accordance with Section 409 of the Local Government Code of 1991.

### **Who may file a Petition for Protection Orders?**

A petition for Protection Order may be filed by the following:

- The offended party
- The parents or guardians of the offended party
- The ascendants, descendants or collateral relatives within the fourth civil degree of consanguinity or affinity
- Officers or social workers of the DSWD or social workers of local government units (LGUs)
- Police officers, preferably those in charge of women and children's desks
- Punong Barangay or Barangay Kagawad
- Lawyer, counselor, therapist or healthcare provider of the petitioner
- At least two (2) concerned responsible citizens of the city or municipality where the violence against women and their children occurred and who has personal knowledge of the offense committed

### **How can I apply for a protection order?**

The application of the Protection Order must be in writing, signed and verified under oath by the applicant. A standard protection order application form, written in English with translation to the major languages, which is readily available, shall contain the following information:

- Names and addresses of the petitioner and the respondent
- Description of relationships between the petitioner and respondent
- Statement of the circumstances of abuse
- Description of the reliefs requested by the petitioner
- Request for counsel and reasons for such
- Request for waiver of application fees until hearing
- An attestation that there is no pending application for a protection order in another court

### **What can the woman do if the barangay official failed or refused to issue the BPO within 24 hours from application?**

- She can file an administrative complaint against the barangay official for failure to perform his/her duties. The complaint must be filed with the Sangguniang Panglunsod or Bayan.
- She can go to the police station to complain against the perpetrator.
- She can go to the Clerk of Court of the Family Court where she lives and request assistance in filing for a Protection Order.

### **Where can the protection order be enforced?**

The Temporary Protection Order and the Permanent Protection Order are enforceable anywhere in the Philippines.

**Can the barangay officials mediate or conciliate?**

No. Conciliation and mediation of acts of violence against women and their children are not allowed under this law Sec. 33, R.A. 9262 amended sections 410-413 of the Local Government Code. The barangay officials, police or social workers should not attempt to mediate or influence the woman to give up her legal action or application for a BPO, TPO or PPO.

**My husband had been cheating on me for over three years now with various women. Is there a way I can apply VAW in filing a case against him?**

The acts of your husband cheating on you have caused you mental and emotional suffering. Such acts may be a ground for the filing of a VAW case for “psychological violence”.

**My boyfriend has been hurting me every time we fight and even threatens to kill me. Can I file a case against him for VAW?**

Yes. Physical violence against the woman as well as threatening to inflict physical harm on a woman for the purpose of controlling her actions or decisions is deemed as an act of violence against women.

**My ex-husband has stopped giving me and our daughter support since 2009. Can I file a case against him for VAW?**

Yes, you may file a case for VAW against him as his act of withdrawing financial support. His act of refusing to give financial support to you or your daughter constitutes “**Economic Abuse.**”

**I have been in an abusive relationship for quite some time. Can I file a case against him considering his abuse was irregular?**

Yes, you can file a case against him. A woman who had a sexual or dating relationship with her assailant and whom the assailant has a common child may file a case against the latter for physical violence.

**I am a lesbian and I have been in an abusive relationship with another woman since 2009. Can I file a case against her, even though she is a woman?**

Acts of violence covered by VAW may be committed by any person with whom the victim has an intimate relationship with like the woman's husband, ex-husband, live-in partner, ex-live-in partner, boyfriend, ex-boyfriend, girlfriend, ex-girlfriend, etc., Thus the offense may be committed by a man or a woman with whom the victim has or had a sexual relationship with.

**I am a husband who has been mentally, verbally and emotionally abused by my wife. Can I file a case against my wife using VAW?**

No. VAWC has been primarily meant for the protection of women and children. It cannot be used by men to charge their wives or partners. You may file a complaint or case under the Revised Penal Code.

**I have 3 minor children with my husband. I wish to file a case against him. What would be the impact upon my children, esp. if he asks for custody?**

As a victim of violence, you are entitled to the custody of your three children. The woman victim of violence shall be entitled to the custody and support of her child/children. Children below seven (7) years old or older with mental or physical disabilities shall automatically be given to the mother, with right to support, unless the court finds compelling reasons to order otherwise. (Section 28 of the R.A. 9262).

**I've been running in fear from my husband for 3 months because he threatened to kill me. What can I do?**

If you have been threatened, you may apply for a Barangay Protection Order (BPO) from the barangay of your place of residence. The application must be in writing, signed and verified and it will be effective for fifteen days.

**As a Battered Woman, is there a chance I might lose custody of my children?**

No, suffering from Battered Woman Syndrome will not automatically disqualify you from having custody of your children unless the court has some other compelling reasons not to award custody of the children to you.

**If custody of my children is not awarded to me, is there any chance that they might be given to my husband?**

No. VAWC explicitly states that in no case shall the custody of the children will be given to the perpetrator of the battered woman syndrome



**What is the liability of a news reporter covering a pending court case for violation of the Anti-VAWC Act if he or she includes in the TV report the name and face of the woman, and other information without her consent?**

The reporter can be liable for contempt of court. All records pertaining to cases of VAWC are confidential. The court may also impose a penalty of one (1) year imprisonment and a fine not more than Five Hundred Thousand Pesos (P500,000.00).

**Where to seek help?**

**Barangay VAW Desk in your Barangay Hall**

**Provincial/City/Municipal Social Welfare and Development Office of Local Government Units**

**Department of Social Welfare and Development (DSWD) Community-Based Services Section (CBSS)**  
Legarda, Manila  
Tel. Nos.: 733-0014 to 18 local 116 / 488-2861

<b>Philippine</b>	<b>National</b>	<b>Police</b>	<b>(PNP)</b>	<b>Women</b>	<b>and</b>	<b>Children</b>	<b>Protection</b>	<b>Center</b>
Camp		Crame,				Quezon		City
Tel.		No.:		410-3213		/		532-6690
Aleng		Pulis		Text		Hot-line:		0919-777-7377
Emergency Hotline: 911								

**Women and Children Protection Desk of nearest Precinct**

**National Bureau of Investigation (NBI) Anti-Violence Against Women and Children Division (VAWCD)**  
V-Tech Tower, G. Araneta Avenue, Quezon City  
Main Office: (02) 8523-8231 to 38 / (02) 8525-6028

