



Research on the Application of Personal Safety Protection Order System

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Abstract

The personal safety protection order system, as the core system of China's Anti-Domestic Violence Law, aims to prevent and stop domestic violence and safeguard the personal safety of family members. This article, by reviewing the legislative background, judicial interpretations, and typical cases of the system, and combining the current application status in practice, analyzes the problems existing in aspects such as proxy application, proof standards, and enforcement mechanisms of the system, and puts forward suggestions for improvement. The research finds that the system has made progress in expanding the scope of protection and clarifying the standards for identifying domestic violence. However, there are still difficulties in protecting special groups (such as minors and sexual minorities), and the enforcement process lacks an effective linkage mechanism. This article suggests promoting the overall improvement of the system's effectiveness through strengthening social collaboration, refining the proxy application procedures, and optimizing the rules of evidence.

Keywords

Personal Safety Protection Order; Domestic violence; Legal protection; Judicial practice

1. Research Background

In 2023, a piece of news that a domestic violence victim was retaliated against after applying for a protection order caused a social shock: After a local court issued a personal safety protection order, the perpetrator openly violated the ban and continued to inflict harm through methods such as text message threats and stalking, ultimately resulting in serious injuries to the victim. This case has exposed the deep-seated predicament of the personal safety protection order system in practice. Although the Anti-Domestic Violence Law has been in effect for more than seven years, the difficulty in implementing protection orders remains a chronic problem in judicial practice. Data shows that from 2017 to 2022, the issuance rates of protection orders by courts across the country were 62.4%, 65.2%, 62.4%, and 71.5% respectively, with the issuance rate of sample cases reaching as high as 83.3%, reflecting a significant gap between the original intention of the system design and the effect of judicial practice (Wang Yuhong, 2025).

The core of this contradiction lies in the structural disconnection in the application of the system. On the one hand, there is ambiguity in the legislative setting of the application threshold for protection orders. On the other hand, the idling problem of the implementation mechanism is particularly prominent. The connection of duties between public security organs and courts lacks rigid constraints. This gap between "paper protection" and "substantive failure" not only undermines the credibility of the judiciary but also traps victims in an institutional predicament of "secondary harm".

2. The Legal Basis and Normative Flaws of the Application of the System

2.1 The Reconstruction of the Legal Theory Basis

2.1.1 Perspective of rights conflict: The dilemma of balancing the right to freedom and the right to life

The core legal dilemma of the personal safety protection order system lies in the problem of rebalancing basic rights when public power intervenes in the private domain. Take the "Prohibition of Access Order" as an example. In 2022, a local court ruled that the perpetrator was prohibited from entering within 200 meters of the common residence of both parties, resulting in the perpetrator being forced to be displaced. Such rulings essentially constitute restrictions on the right to personal freedom as stipulated in Article 37 of the Constitution, while Article 23 of the Anti-Domestic Violence Law merely provides a general provision for "ordering to vacate the residence", without clarifying the constitutional review standards for rights restrictions.

The deeper contradiction lies in the legislative absence of value hierarchy: When the victim's right to life and health conflicts with the perpetrator's right to freedom of action, the current system has not established hierarchical judgment rules. However, in China's judicial practice, some prohibition of access orders do not specify a restriction period, essentially transforming temporary relief into permanent deprivation of rights.

2.1.2 The paradox of procedural justice: The Tension between urgency and due process

The "24-hour emergency ruling" clause of the personal safety protection order (Article 28 of the Anti-Domestic Violence Law) has fallen into a value rift between efficiency and justice in practice. The law requires that a ruling be made within 24 hours in an emergency. However, evidence of domestic violence needs to be collected through the collaboration of multiple departments. In practice, it may be difficult for courts to quickly obtain key evidence due to the failure of public security organs to retain evidence in a timely manner or hospitals to properly record medical treatment information. Economically developed regions are generally equipped with more complete enforcement linkage mechanisms, while courts in less developed regions lack a 24-hour duty system, making it difficult to meet the demands of emergency response. For instance, among the 1,205 protection orders issued in Jiangsu Province, there were only 10 violations, while in places like Tibet, less than 200 cases were accepted, reflecting the regional imbalance in enforcement capacity (Wang Dan, 2022).

This paradox stems from the structural contradiction in institutional design: Legislation defines protection orders as "non-litigation procedures", but Article 12 of the Interpretation of the Anti-Domestic Violence Law requires courts to "review the facts of domestic violence based on evidence", essentially grafting the proof rules of litigation procedures.

2.2 The Fragmentation and Ambiguity of the Normative System

2.2.1 Legislative oversight: Misalignment of concept definition and coordination mechanisms

Article 2 of the Anti-Domestic Violence Law defines "mental violence" as "acts of insult, defamation and other infringements", but it does not clearly define the criteria for identifying new forms of violence such as "cold violence" and "psychological manipulation", which also fall under the legal categories of domestic violence (An Qi, 2024), a typical case, The perpetrator sent death threat text messages to the victim for three consecutive years (an average of 27 per day), but the court rejected the application on the grounds of "no physical violence".

The virtualization of the cross-departmental collaboration clause is more prominent. Article 32 of the Anti-Domestic Violence Law requires the public security organs to assist in the enforcement of protection orders, but does not stipulate the specific enforcement procedures. Empirical research shows that there are serious deviations in the perception of protection orders among grassroots police officers. Public security organs have more advantages in personal protection, but due to their status being merely "assistance", unclear rights and responsibilities, and shirking of responsibility often occur in practice. This ambiguity in norms directly led to an enforcement vacuum.

2.2.2 Limitations of judicial interpretations: The division between the rules of evidence and the standards of judgment

The concealment and suddenness of domestic violence make it difficult for victims to provide evidence. In most cases, only limited evidence, such as alarm records and medical certificates, is relied upon. Moreover, some public security organs do not make standardized records when handling cases, resulting in an incomplete chain of evidence (Wang Dan, 2022).

The 2022 "Regulations" expanded the forms of evidence, clearly stating that "the applicant's statement can be used as preliminary evidence", although it did indeed expand the forms of evidence (Wang Yuhong, 2025). In practice, a polarization has emerged: in some regions, courts require that "third-party proof must be provided". This division stems from the judicial interpretation's failure to establish differentiated proof standards—the same threshold of evidence still applies to situations such as physical violence and mental violence, immediate danger, and long-term threat.

2.2.3 The deeper problem lies in the disruption of normative logic

Article 997 of the Civil Code positions the prohibition of infringement of personality rights under the tort liability section, while Article 23 of the Anti-Domestic Violence Law is a special legal regulation. There is a fundamental conflict between the two in terms of proof standards and relief procedures. In a certain case, the judge simultaneously invoked two laws to issue a protection order, but failed to specify the sequence of application of the norms, revealing the value confusion within the legal system. This fragmented situation has turned the supposed strict personal safety protection network into a "Mosaic of systems" (Wang Yani & Li Miaojuan, 2023).

3. Structural Contradictions in Judicial Practice: Based on Empirical Analysis

3.1 Data Presentation: The Dual Dilemma of Application Rate and Execution Rate

According to the data from the China Judgments Online (August 1, 2022, to June 20, 2023), a search on the website with the keyword "domestic violence" and marriage and family disputes yielded a total of 811 judgment documents and 58 mediation documents. There were a total of 144 rulings for personal protection orders across the country, with an application rate of only 16.57% (Wang Yuhong, 2025). One data point reflects the paradox of "high discretion rate" and "low enforcement rate" in the operation of the system. The reason for this is the lack of uniform discretion standards. However, due to the absence of a unified judgment standard (such as the ambiguous definition of "actual danger"), some cases overly rely on judges' judgments, and the final ruling results are also not the same (Lu Zhixuan, 2022).

3.2 The Deep-seated Contradictions of Typical Cases

3.2.1 Case 1 (Procedural Flaw)

In a certain case in Hunan Province in 2022, the court rejected Li's application for a protection order on the grounds of "no evidence of physical violence". Li only submitted the threatening text message from the perpetrator and the diagnosis of psychological trauma, but the judge held that "mental violence should be comprehensively determined in combination with physical harm." Three months later, Li was seriously injured by the perpetrator with a knife. The case has raised public doubts about the "rigid standard of proof". Such cases reveal the predicament of evidence determination in judicial practice: The existing rules overly rely on direct evidence such as "injury assessment" and "police response records", while the "mental violence" defined in Article 2 of the Anti-Domestic Violence Law has led to the rejection of relevant applications due to the lack of operational details.

3.2.2 Case 2 (Execution Failure)

In a certain case in Beijing in 2021, Wang violated the protection order and continued to harass his ex-wife. The court only admonished him but did not initiate judicial detention. This case has exposed the chronic problem of "insufficient deterrent effect of disciplinary measures": The current law only stipulates that for violations of protection orders, "minor cases will be admonitions and severe cases will be detained", but in practice, due to the ambiguous division of powers and responsibilities between the public security organs and the courts, the cases of violations have stopped at verbal warnings, and only a few have initiated judicial detention procedures (Wang Yani & Meng Xinyi, 2023).

3.3 The Alienation of Judges' Discretionary Power

In judicial practice, the conservative tendency of judges and their insufficient initiative form a structural tension. On the one hand, evidence review shows a "physical violence centrism": judges are more likely to determine that applicants provide direct materials reflecting physical harm, such as injury photos, diagnosis certificates, or police reports. Only a few cases adopt indirect evidence, such as psychological assessment reports and social media threat records.

On the other hand, the application of special procedures is seriously insufficient: the utilization rate of the proxy application system is less than 3%, and the application rate of temporary protection orders is lower than 5%.

The alienation of judges' discretionary power stems from the lack of institutional incentives: The current assessment mechanism focuses on "case closure rate" rather than "social effect", leading judges to be more inclined to adopt risk-aversion strategies. For instance, a court in a certain central province, in an attempt to reduce the "risk of erroneous judgment", requires that all applications for protection orders must be accompanied by a warning letter from the public security organ, thereby indirectly raising the application threshold.

4. Suggestions for Improving the System

To enhance the effectiveness of the personal safety protection order system, a systematic optimization plan should be constructed from three levels: legislation, judiciary, and social collaboration. This will break the path dependence of "individual advancement" and form a collaborative mechanism featuring refined rules, professional judiciary, and social co-governance.

4.1 Legislative Level: Refine the Rules of Evidence and Strengthen the Connection of Laws

The current "Anti-Domestic Violence Law" still limits the definition of domestic violence to traditional physical violence and is difficult to deal with the new forms of violence in the digital age. Legislation should clarify the scope of evidence determination for "domestic violence", including electronic information evidence such as stalking and harassment within the scope of determination. Furthermore, a hierarchical response mechanism needs to be constructed: In response to the differences in the urgency and harmful consequences of violence, distinguish between emergency protection orders and long-term protection orders, and provide differentiated protection measure durations. Comprehensively protect the legitimate rights and interests of the victims and incorporate them into the credit system based on the degree of violence to make them feel the invisible punishment (Liu Ru & Li Ying, 2022), to achieve precise resource allocation and long-term protection of rights.

In terms of legislative connection, it is necessary to strengthen the interaction between relevant laws, such as the Anti-Domestic Violence Law and the Public Security Administration Punishments Law, and actively promote the integration of the implementation of the personal protection order system into the comprehensive social security management system (Xie Zhanglu, 2023).

4.2 Judicial Level: Technology Empowerment and Professional Improvement

The chronic problem of "emphasizing discretion over enforcement" in judicial practice urgently needs to be corrected through technical means and professional division of labor. The "Family Affairs Investigator" system in Taiwan can be drawn upon. Professionals with backgrounds in psychology and sociology can get involved in cases and issue risk assessment reports through home visits and social relationship investigations, etc., to assist judges in determining the risk of violence recurrence, avoiding mechanical rulings based solely on written evidence. At the same time, a unified national protection order enforcement information platform should be established to break down the data barriers among courts, public security organs, and communities. Through the platform, the status of protection orders, the location information of perpetrators, and violation records should be updated in real time, and an automatic early warning function should be set up. Digital monitoring should be utilized to enhance enforcement efficiency.

4.3 Social Synergy: Dispelling the Myth of "Private Domain Autonomy"

The cognitive bias that domestic violence has long been regarded as a "family matter" requires the intervention of social forces to reshape the logic of public governance. On the one hand, it is necessary to strengthen the legal empowerment of community grid workers: Through regular training, they are enabled to master the skills of identifying domestic violence and the norms for fixing evidence. On the other hand, after the protection order is issued, the enforcement department of the court takes the lead in establishing a case enforcement team. All departments in the area, including residents' committees, villagers' committees, rescue and management institutions, and welfare institutions, should assign dedicated staff to participate in the implementation team to ensure the effectiveness of the linkage mechanism in the process of construction and specific application (Wu Yang, 2022).

5. Conclusion

The optimization of the personal safety protection order system is by no means a single-dimensional repair. Instead, it requires clarifying the bottom line of rules through legislation, injecting professional impetus into the judiciary, and activating co-governance resources in society to form a closed-loop system of "prevention-intervention-relief", ultimately achieving a leap from "paper rights" to "real security".

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