

# FAMILY VIOLENCE

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## LEGISLATIVE UPDATE

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### A CONRAD N. HILTON FOUNDATION PROJECT

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The *Model Code on Domestic and Family Violence* is the result of a three year project, funded by the Conrad N. Hilton Foundation, which analyzed state legislation on family violence and developed a comprehensive model code to address family violence issues facing communities across the country. Since the *Model Code* was published in 1994, it has been distributed to and used by many organizations and individuals in the public arena who are seeking legislative and policy solutions to the problem of family violence.

The Hilton Foundation's interest and involvement in reducing and preventing family violence has not ended with

the development of the *Model Code*. The Foundation continues to provide funding to ensure that professionals working in the area of family violence in every state are aware of the *Model Code*, to assist with implementation of the *Model Code*, to document legislative changes in states, and to provide annual updates of new state family violence legislation for those working in the fields of family violence and legislation.

This publication is the third annual update and addresses the 1997 legislative changes made across the country in the area of family violence.

National Council of Juvenile & Family Court Judges

Louis W. McHardy, Dean & Executive Director



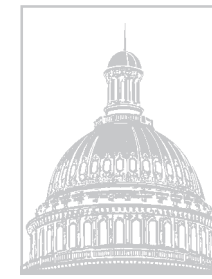
**FAMILY VIOLENCE**  
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**Family Violence Database Available**

Thanks to continued financial support from the Conrad N. Hilton Foundation, the Family Violence Department at the National Council of Juvenile and Family Court Judges has been able to maintain and update its family violence statute database. This database contains all domestic violence-related statutes from the 50 states and the District of Columbia. The statutes are updated as legislation is added, deleted, or amended in each state's legislative sessions.

This database has been developed in conjunction with the *Model Code on Domestic and Family Violence*, and will be helpful to persons interested in researching a particular area of the law which addresses family violence. The Family Violence Department staff will be able to provide information on any existing state statute that deals with the specific topic in question. Information contained in the statute database is available upon request.

National Council of Juvenile & Family Court Judges



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**FAMILY VIOLENCE**  
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**INTRODUCTION AND OVERVIEW**

by Meredith Hofford

In 1997 the majority of states once again enacted far-reaching legislation addressing the problems of domestic violence and the needs of its victims and their children. The trends in 1997 are different from those of the past two years, reflecting both the number of states which already have addressed many major issues and widespread attention to a host of emerging issues. Additionally, many states made strides in such well-established areas as enhanced penalties in cases of domestic violence; tightened bail and release provisions for abusers; bars on insurance discrimination against victims of domestic violence; and provision of treatment for batterers and standards for that treatment. Finally, a number of additional states enacted legislation designed to protect children from the effects of domestic violence.

Special congratulations to Florida and Nevada for an extremely fruitful 1997 legislative session. Each of them enacted a wide variety of quality statutes based on the *Model Code* and designed to hold batterers accountable; protect victims and children; facilitate their access to the courts; and enhance prevention and treatment. Other states especially productive in these endeavors during the 1997 legislative session include California, Colorado, Georgia, Louisiana, Montana, North Carolina, Ohio, Oregon, Rhode Island, Tennessee, Texas and Virginia. A tip of the hat to you all.

Details of accomplishments, trends and innovations appear in the following charts and state summaries.

## INTRODUCTION AND OVERVIEW

### ***WELFARE REFORM***

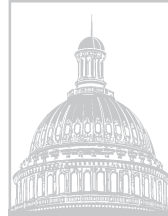
Fearing that the tightened federal rules for public assistance mandated by Congress, unrelieved by federal exemptions for victims of domestic violence, could jeopardize the safety of battered women and their children, states are beginning to mandate such exemptions themselves. 1997 saw six states enact such exemptions.

### ***FULL FAITH AND CREDIT***

Another seven states joined the ten which enacted laws in 1996 to provide for full faith and credit for foreign orders for protection. Texas, for example, wrote into its statute uniform data elements to be included in all orders for protection, thereby bringing them into compliance with requirements for entry into the Federal Bureau of Investigation's National Crime Information System Computerized Civil Protection File (NCIC). When all states follow suit, it will be much easier everywhere in the country to ascertain the existence of orders issued anywhere in the country.

### ***FEE WAIVER***

Consistent with federal requirements, six states eliminated fees charged to victims of domestic violence for orders for protection. Louisiana and Nevada mandated them for abusers instead.



### ***ENHANCED PENALTIES***

A number of states enacted laws to enhance penalties for repeat offenders. Several made violation of protection orders a felony in cases where the violation constitutes an assault. California increased penalties for persons who commit acts of domestic violence while they are subject to a protection order.

### ***NEW CRIMES OF DOMESTIC VIOLENCE***

In an emerging trend, a handful of states have enacted new crimes for committing acts of domestic violence in the presence of children. Utah, for example, makes it a crime if the child can see or hear the act of domestic violence. These statutes are a response to the mounting evidence of the detriment witnessing domestic violence causes children. Three states have made it a crime to interfere with the reporting of

## INTRODUCTION AND OVERVIEW

domestic violence. This will allow certain abusers who typically rip the phone out of the wall in order to prevent the police from being called to be charged for this act as well.

### ***TIGHTENED BAIL/RELEASE***

Some states tightened their bail laws against alleged batterers in order to protect victims of domestic violence. While traditional bail laws have addressed only the issue of the defendant's reappearance at trial, these states have mandated that courts also consider victim safety in setting conditions for releasing defendants charged with domestic violence. Nevada, for example, requires defendants to be held at least 12 hours and then to face an increased amount of bail if they have a history of domestic violence convictions. Nevada and several others now also require the imposition of specific release conditions intended to safeguard the victim, including stay-away, no-contact and no-firearm-possession provisions. New Florida law mandates that defendants facing domestic violence charges be held without bail if they violate conditions of their release.



### ***INSURANCE DISCRIMINATION***

Six states barred insurance discrimination against victims of domestic violence in 1995. Fourteen more did so in 1996. In 1997, twenty-three more joined them, making the prohibition almost unanimous country-wide!

### ***BATTERER TREATMENT/INTERVENTION***

Seven states enacted legislation to permit or mandate courts to require attendance at batterer treatment/intervention programs; and four states passed laws to require such programs to be certified to comply with state standards. Florida, which in the past made certification voluntary, made it mandatory in 1997.

### ***CUSTODY AND VISITATION***

Eight states addressed the issue of domestic violence as it affects decisions on custody and visitation. Five of these, Arkansas, California, Nevada, South Carolina

## INTRODUCTION AND OVERVIEW

and Tennessee, added domestic violence as a factor courts must consider in determining custody arrangements. Two others, Florida and Texas, joined the eleven states which had previously passed a version of the *Model Code's* custody presumption. Arkansas and California added domestic violence as a factor courts must consider in awarding visitation, with California clarifying that domestic violence constitutes per se detriment to the child. South Carolina enacted the *Model Code's* provisions for supervised visitation. Massachusetts barred visitation in cases where one parent is convicted of the death of the other by murder in the first degree.

Expanding on the trend to consider domestic violence in deciding custody and visitation issues, Montana enacted legislation requiring domestic violence to be considered as a factor in determining whether to approve adoptions. Minnesota mandated judicial training in the areas of domestic violence and child custody.



### **OTHER TRENDS AND ISSUES**

In addition to these areas of concentrated effort, some of the legislatures addressed a variety of cutting-edge issues.

- Five states made it easier for victims to see that, in the process of obtaining and maintaining restraining orders, their addresses are kept confidential. Nevada goes even further and mandates that the Nevada Secretary of State establish a procedure to permit victims to create legal but fictitious addresses.
- Three states enacted laws limiting the use of mediation to determine custody and visitation issues in cases where there is domestic violence.
- Two states expanded orders for protection to cover dating relationships.
- Several states mandated police and judicial training, the former to focus on identification of the primary aggressor in domestic violence calls and the latter to focus on the adverse effects of partner violence on children.
- Three states created task forces to examine and coordinate domestic violence prevention efforts.
- Maine created a fatality review commission.

## INTRODUCTION AND OVERVIEW

- New York created a mandate that employers begin to address the safety of victims of domestic violence in the workplace.
- New York also passed a law requiring hospitals to provide the parents of newborn babies information on domestic violence and its effects on children.
- Maryland authorized courts to take an offender's property and garnish a portion of his wages to meet unpaid restitution obligations to his victim.
- Nevada enacted a \$35 assessment against convicted batterers to be used to fund various domestic violence programs.
- South Carolina mandated that convicted batterers pay restitution for the costs of medical and psychological treatment of children harmed by domestic violence.
- Georgia made it a crime to reveal the location of a shelter.

### **ON THE HORIZON**

In addition to the great strides in domestic violence legislation during the 1997 session, state legislators in 1998 face a host of pending bills which are likely to define future trends. For example:

- Minnesota will face issues pertaining to supervised visitation and visitation centers.
- New Jersey will consider family leave for employees to deal with the aftermath of domestic violence.
- New York will consider reducing the level of crimes charged against victims who injure or kill their abusers.
- North Carolina will consider extending unemployment benefits to victims whose abusers' behavior force them to leave their jobs.

Probably the greatest area still needing legislative attention across all of the states consists of measures for the prevention and treatment of domestic violence. 1998 promises to be another active year for domestic violence legislation and perhaps will see the states enact widespread prevention and treatment statutes, such as the proposals currently pending before the West Virginia Legislature. Volume IV of the Legislative Update will bring you a full report of these and other developments this time next year.



## INTRODUCTION AND OVERVIEW

Thanks to the support of the Conrad N. Hilton Foundation, the Family Violence Department is able to provide assistance to states drafting, enacting or implementing their domestic violence laws. Research, expert testimony to legislative bodies, consultation and training is available. Please don't hesitate to call (800) 52PEACE to request assistance.

### *OUR DEEPEST APPRECIATION*

As always, we are indebted to dozens of advocates, state coalition staff, legislators and their staffs for their assistance in compiling this information. Please accept our apology for any errors or omissions. We would be grateful to have these brought to our attention. Also, if this document could be improved in any manner so that it is more useful to you, let us know.

Many thanks to everyone who is working so hard to end violence against women and children.



# 1997 STATE LEGISLATION

STATE	Definitions	Criminal Penalties & Procedures	Civil Orders For Protection
Alabama			
Alaska		X	
Arizona		X	X
Arkansas			
California		X	
Colorado		X	
Connecticut			X
Delaware	X		X
Dist. of Columbia			
Florida	X	X	X
Georgia			X
Hawaii	X	X	
Idaho			X
Illinois		X	
Indiana	X	X	X
Iowa			
Kansas			
Kentucky			
Louisiana			X
Maine			
Maryland		X	
Massachusetts			
Michigan		X	
Minnesota		X	
Mississippi			
Missouri			

Family & Children	Prevention & Treatment	Miscellaneous
		X
	X	X
X		
X		X
X		
X	X	
	X	X
	X	
		X
		X
		X
		X
		X
X		
	X	

# 1997 STATE LEGISLATION

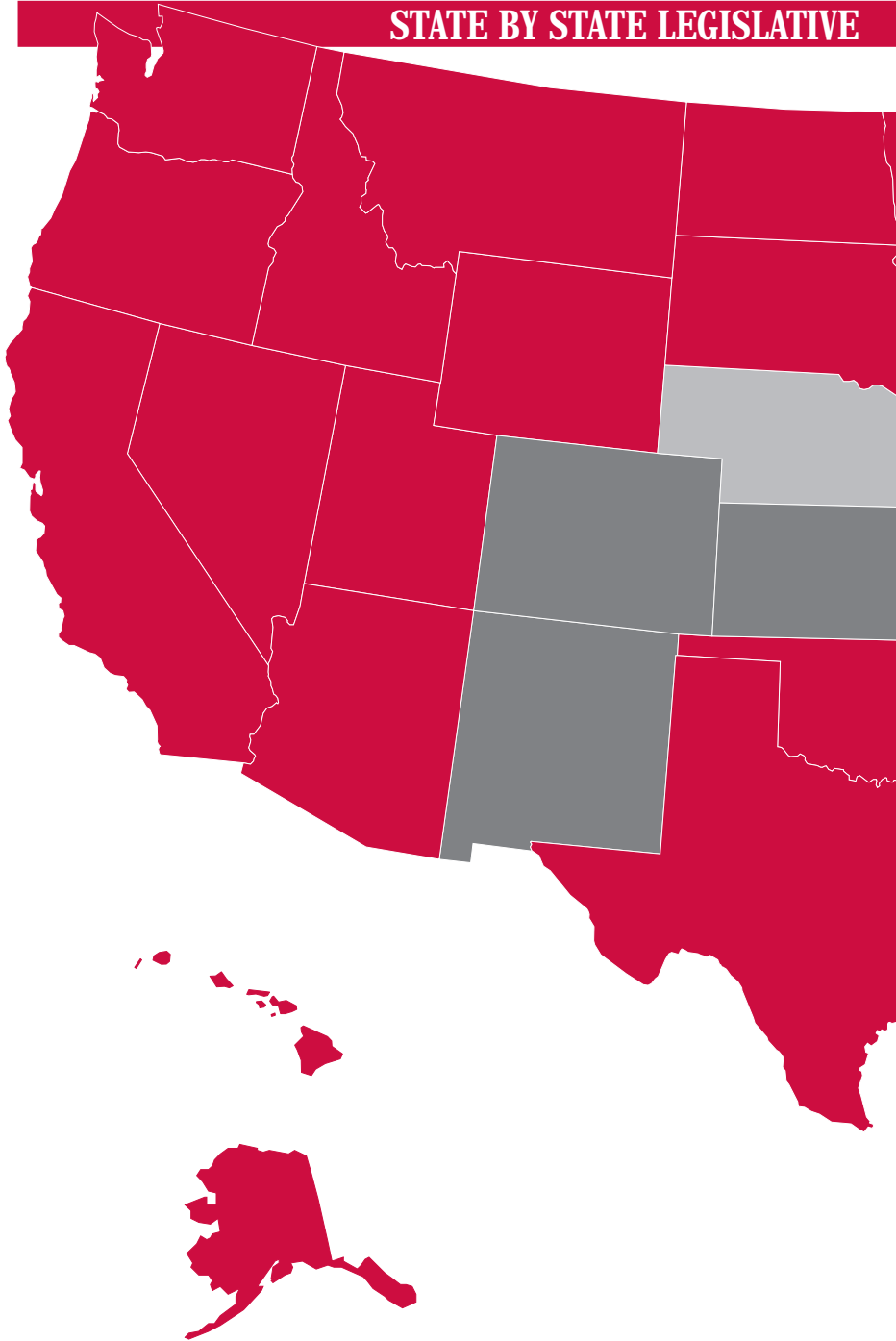
STATE	Definitions	Criminal Penalties & Procedures	Civil Orders For Protection
Montana		X	X
Nebraska			X
Nevada	X	X	X
New Hampshire			
New Jersey			
New Mexico			X
New York			
North Carolina	X		X
North Dakota			
Ohio	X		X
Oklahoma		X	
Oregon	X	X	X
Pennsylvania			
Rhode Island		X	
South Carolina			
South Dakota		X	
Tennessee			X
Texas		X	X
Utah		X	
Vermont			
Virginia		X	X
Washington		X	
West Virginia			
Wisconsin			
Wyoming			X

Family & Children	Prevention & Treatment	Miscellaneous
X		
X		X
		X
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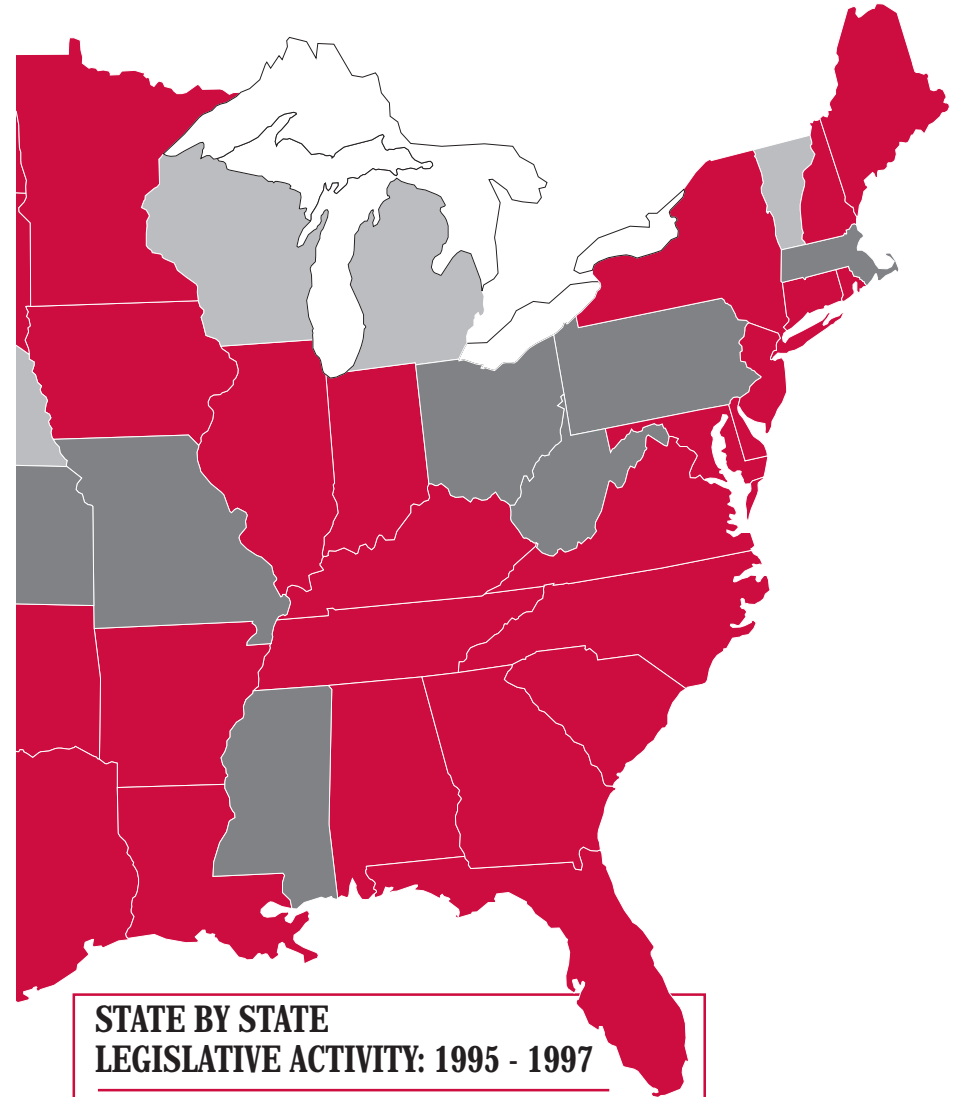




**STATE BY STATE LEGISLATIVE**



**ACTIVITY: 1995 - 1997**



**STATE BY STATE  
LEGISLATIVE ACTIVITY: 1995 - 1997**

- ONE YEAR** 
- TWO YEARS** 
- THREE YEARS  
OR EVERY YEAR  
LEGISLATURE HAS MET** 

# ALASKA



## **LEGISLATURE MEETS:**

Annually starting in January and normally ending in May.

## **CRIMINAL PENALTIES AND PROCEDURES:**

§ 11.56.745 is created to make it a class A misdemeanor to interfere with a person who is reporting or attempting to report a crime involving domestic violence, as defined in § 18.66.990.

## **MISCELLANEOUS:**

§ 21.36.430 is created prohibiting an insurance company from refusing to issue or renew insurance coverage, cancel existing insurance, deny a covered claim or increase the premium for coverage on the sole basis that the insured was a victim of domestic violence.

§ 21.54.100 is created to prohibit an insurance company from establishing rules for eligibility for coverage, including continued eligibility and waiting periods, dependent on such evidence of insurability as conditions arising from acts of domestic violence.

# ARIZONA



## **LEGISLATURE MEETS:**

Annually starting in January and normally ending in April.

## **CRIMINAL PENALTIES AND PROCEDURES:**

§ 13.1302 is amended to include as custodial interference

- a parent's taking or withholding a child from the other parent before custodial rights are determined.
- a joint legal custodian's taking or withholding a child from a co-custodian.
- at the expiration of access rights outside the state, a parent's intentional failing or refusal to return the child to the lawful custodian.

## **CIVIL ORDERS FOR PROTECTION:**

§ 12-1809 is amended to prohibit a court from granting a mutual injunction against harassment unless each party files a separate verified petition for injunctive relief, in which case the court, after consultation with the judicial officers involved, may consolidate the opposing petitions for hearing.

## **PREVENTION AND TREATMENT:**

§ 13-3601.01 is created to require

- a person convicted of a misdemeanor domestic offense to complete a domestic violence offender treatment program provided by an approved facility which complies with standards established and enforced by the department of health.
- the person undergoing batterer's intervention treatment to pay for the cost of treatment.
- the batterer's treatment program to report to the court on the offender's progress in and completion of the program.

## **MISCELLANEOUS:**

§ 20-448 is amended to prohibit insurance discrimination against victims of domestic violence.

# ARKANSAS



## **LEGISLATURE MEETS:**

In odd-numbered years starting in January and normally ending in March.

## **FAMILY AND CHILDREN:**

§ 9-13-101 is amended to provide that when a party to a custody or visitation action has been shown by a preponderance of the evidence to have committed an act of domestic violence against a family or household member of either party, the court must consider the effects of the violence upon the best interests of the child, whether or not the child was injured or witnessed the abuse.

# CALIFORNIA



## **LEGISLATURE MEETS:**

Sessions begin in January of even-numbered years and end in November of the following odd-numbered years.

## **CRIMINAL PENALTIES AND PROCEDURES:**

§ 136.2 of the Penal Code is amended to permit the court to issue such orders as it deems necessary to protect victims and witnesses from intimidation by accused domestic violence offenders and to provide copies of such orders to all protected parties and offenders.

§ 667.5 of the Penal Code is amended to add spousal rape in concert with another person as a violent crime meriting an enhanced penalty.

§ 1050 of the Penal Code is amended to include among those cases which may be continued on the docket for good cause criminal charges based on allegations of domestic violence. When the prosecuting attorney assigned to such a case has another trial, preliminary hearing, or motion to suppress in progress, the case may be continued for up to 10 days so as to permit the assigned prosecutor to be able to handle it.

§ 1170.76 is added to the Penal Code to provide that

- the fact that a defendant commits or attempts to commit a crime of domestic violence in the presence of a minor who is a member of the household or the child, stepchild or foster child of the victim constitutes a circumstance in aggravation of the crime for sentencing purposes.
- the Legislature recommends that the Judicial Council revise Rule 421 of the California Rules of Court to add to the circumstances in aggravation of the crime the existence at the time the crime is committed of a temporary restraining order, injunction, or other court order, protecting the victim from the defendant.

§ 1269c of the Penal Code is amended to include among considerations for a magistrate or commissioner, in a bail hearing for an accused domestic violence offender, setting bail at an amount sufficient to assure the protection of the victim or family member of the victim.

§ 1377 of the Penal Code is amended to provide that civil compromise is not allowed in cases involving domestic violence misdemeanors when the defendant has civilly compromised a domestic violence offense within the previous 7 years.

## **FAMILY AND CHILDREN:**

§ 3011 of the Family Code is amended to include a history of abuse among factors a court shall consider in determining the best interest of a child in any custody or visitation proceeding. The statute includes abuse

- by one parent against the other parent.
- by a person seeking custody or visitation against any child related by blood or affinity or in that person's caretaking responsibility.
- by a person seeking custody or visitation against a current spouse, cohabitant or person with whom such person has a dating or engagement relationship.

§ 3020 of the Family Code is amended to declare that the perpetration of child abuse or domestic violence in a household where a child resides is detrimental to the child, and that the court's primary concern in ordering custody or visitation shall be for the health, safety and welfare of the child and the safety of all family members.

§ 68518 of the Government Code is enacted to require the Judicial Council to establish a standard, uniform form to be used by all trial courts for temporary restraining orders, restraining or protective orders, including those involving child custody and visitation, and a separate standardized form for emergency protective orders, together with a standardized custody and visitation attachment for all of these.

## **MISCELLANEOUS:**

§ 676.9 is added to the Insurance Code to provide that insurance companies may not discriminate against victims of domestic violence in writing coverage for residential, liability and commercial risks.

§ 8208 of the Education Code is amended to provide for

- the development of protocols for handling cases in which the recipients of welfare benefits are past or present victims of abuse.
- the waiver of program requirements which would make it more difficult for victims or their children to escape abuse or which would in some other way be detrimental to them.



## **LEGISLATURE MEETS:**

Annually starting in January. The sessions are limited to 120 calendar days.

## **CRIMINAL PENALTIES AND PROCEDURES:**

§ 16-7-403 is amended to provide that any person convicted of a crime involving domestic violence who wishes to avail himself of deferred sentencing must stipulate to certain conditions of release, including complying with existing support orders and terms of any restraining orders, and refraining from possessing a firearm or other dangerous weapon.

## **FAMILY AND CHILDREN:**

§ 14-10-123.7 is amended to delete domestic violence restraining order cases from the list of case types for which the court may order parents to attend parenting education classes.

## **MISCELLANEOUS:**

§ 10-3-1104.8 is enacted to prohibit insurers licensed in the state from engaging in unfair methods of competition and unfair or deceptive acts or practices, including

- denying, refusing to issue, refusing to renew, refusing to reissue, canceling, or otherwise terminating an insurance policy or restricting coverage on any person solely because of that person's domestic abuse status.
- adding any surcharge or rating factor to a premium of an insurance policy solely because of an insured's domestic abuse status.
- directly or indirectly asking an insured or applicant about that person's domestic abuse status.
- disclosing or transferring any information relating to a person's domestic abuse status or related medical condition.

§ 26-2-708 is enacted requiring the establishment of statewide standards and procedures to acquaint victims of domestic violence seeking public assistance with

- referral procedures for such assistance and for counseling and supportive services.
- waivers from those program requirements which make it more difficult for an applicant to escape domestic violence or penalize applicants who have been or are at risk of being victims.

# CONNECTICUT



## **LEGISLATURE MEETS:**

Annually. In odd-numbered years, sessions start in January and normally end in June. In even-numbered years, sessions start in February and normally end in May.

## **CIVIL ORDERS FOR PROTECTION:**

§ 46b-15 is amended to require all protection orders entered by the courts to include language asserting and demonstrating that they satisfy the full faith and credit requirements of 18 USC 2265 as to jurisdiction, notice and an opportunity to be heard and therefore that they are enforceable in all states, territories and the District of Columbia.

## **FAMILY AND CHILDREN:**

§ 17a-28 is amended to include, among those designated to receive copies of a party's records of any investigation of child abuse or neglect, any attorney appointed by the court to represent a child in a proceeding affecting the child's best interest, including a proceeding to determine custody or visitation.

# DELAWARE



## **LEGISLATURE MEETS:**

Annually starting in January and ending in June.

## **DEFINITIONS:**

§ 1041 is amended to include as abuse engaging in a course of alarming or distressing conduct in a manner which is likely to cause fear or emotional distress or to provoke a violent or disorderly response.

## **CIVIL ORDERS FOR PROTECTION:**

§ 1045 is amended to provide for the extension or modification of a protection order for up to 6 months upon a showing by the preponderance of the evidence that domestic violence has occurred, or that the order has in some other way been violated.



## **LEGISLATURE MEETS:**

Annually starting in March. Sessions normally last for 60 calendar days.

## **DEFINITIONS:**

§ 741.28 is amended to add kidnapping and false imprisonment to the definition of domestic violence.

## **CRIMINAL PENALTIES AND PROCEDURES:**

§ 741.29 is amended

- to require police officers to file a complete written report of all domestic violence investigations, whether or not they result in arrest. The reports are to include reasons for failure to arrest or for mutual arrest.
- to provide that a violation of conditions of pretrial release for domestic violence constitutes a misdemeanor of the first degree requiring the offender to be held in custody until the first court appearance.

§ 901.15 is amended to declare that it is Florida public policy strongly to discourage mutual arrest, to charge for domestic violence offenses, and to encourage training of law enforcement officers and prosecutors in this area.

§ 921.0014 is amended to include new sentencing guidelines providing that domestic violence committed in the presence of a child under 16 who is related to either the victim or the perpetrator may be subject to enhanced penalties.

## **CIVIL ORDERS FOR PROTECTION:**

§ 741.30 is amended to

- broaden the definition of victim of domestic violence to include one who is in imminent danger of suffering an act of domestic violence.

- restrict charges for fees for injunctions, including administrative fees, law enforcement charges, court costs and service charges.
- provide that terms of an injunction restraining the respondent remain in effect until modified or dissolved.
- require that, for purposes of demonstrating their validity, orders state on their face that they meet the necessary requirements to be accorded full faith and credit.
- require that batterers' treatment programs be certified by the state.

§ 741.315 is amended to guarantee full faith and credit to valid foreign protection orders.

## **FAMILY AND CHILDREN:**

§ 44.102 is amended to bar mediation of custody, visitation or other parental responsibility issues if the court finds there has been a history of domestic violence which would compromise the mediation process.

§ 61.13 is amended to mandate that, in deciding custody, the court consider as a rebuttable presumption of detriment to the child evidence that a parent has been convicted of a felony of the third degree or higher involving domestic violence. Evidence of domestic violence, even without a felony conviction, is to be considered evidence of detriment to the child.

## **PREVENTION AND TREATMENT:**

§ 943.171 is amended to provide that law enforcement training include how to recognize and determine the primary aggressor.

# GEORGIA



## **LEGISLATURE MEETS:**

Annually starting in January and normally ending in March.

## **CIVIL ORDERS FOR PROTECTION:**

§ 19-13-2 is amended to provide that, when the respondent does not live in the state, the petitioner can file for relief in the Superior Court either where the petitioner lives or where the act of domestic violence occurred.

## **PREVENTION AND TREATMENT:**

§ 19-13-31 is amended to create a State Commission on Family Violence which, in an effort to end domestic violence in the state, shall develop a comprehensive state plan including

- initiation, coordination and oversight of the implementation of family violence laws.
- establishment of a Community Task Force on Family Violence in each judicial circuit.

## **MISCELLANEOUS:**

§ 19-13-23 is amended to make it a misdemeanor to reveal the location of a family violence shelter.

§ 49-4-19 is amended to exempt victims of domestic violence from certain welfare assistance requirements and make support services available to them.



# HAWAII

## **LEGISLATURE MEETS:**

Annually starting in January and normally ending in April.

## **DEFINITIONS:**

§ 586-1 is amended to expand domestic violence offenses to include extreme psychological abuse or malicious property damage.

## **CRIMINAL PENALTIES AND PROCEDURES:**

§ 709.906 is amended to require sentenced domestic violence offenders, along with other penalties, to undergo such domestic violence treatment and counseling programs as are ordered by the court.

# IDAHO



## **LEGISLATURE MEETS:**

Annually starting in January and normally ending in March.

## **CIVIL ORDERS FOR PROTECTION:**

§ 39-6310 is amended to require that a respondent not served with notice of a petition for protection be served with such notice when a temporary order is served. The clerk of court is to give police a copy of the petition for protection order for service along with the temporary order.

## **PREVENTION AND TREATMENT:**

Court Rule 33.3 is amended to require evaluators of persons guilty of domestic assault or battery to be approved by the Supreme Court and, during each year they are so approved, to complete at least 6 hours of specialized training in domestic violence courses approved by the Court. Proof of compliance must be filed with the Administrative Director of the Courts by July 1st of each year.

# ILLINOIS



## **LEGISLATURE MEETS:**

Annually in January and normally ends in May or June.

## **CRIMINAL PENALTIES AND PROCEDURES:**

Criminal Code § 9-3 is amended to enhance the penalty for involuntary manslaughter in which the victim was a family or household member.

Criminal Code § 12-6.3 is amended to add the misdemeanor crime of interfering with the reporting of domestic violence by preventing the victim or witness from

- calling 911.
- obtaining medical assistance.
- making a report to law enforcement.



## **LEGISLATURE MEETS:**

Annually for one day in November, then convenes in January. Sessions normally end by April 30 in odd-numbered years and by March 15 in even-numbered years.

## **DEFINITIONS:**

§ 31-9-2-42 is amended to include as domestic violence conduct found to constitute physical or sexual abuse.

## **CRIMINAL PENALTIES AND PROCEDURES:**

§ 35-42-2-1 is amended to include battery resulting in bodily injury to another person as a class D felony if the person who commits it has been convicted previously of a battery relating to domestic violence.

§ 35-46-1-15.1 is amended to penalize anyone who knowingly or intentionally violates a protection order

- in a paternity action.
- in a child in need of services proceeding.
- in a juvenile delinquency proceeding.

The statute also covers violations of foreign protection orders.

## **CIVIL ORDERS FOR PROTECTION:**

§ 34-4-5.1-2 is amended to add that petitioners for civil orders of protection may request the court to order counseling or other social services including domestic violence education for the petitioner, the respondent or both.

§ 34-4-5.1-5 is amended to add relief for the petitioner in cases where no divorce or legal separation is pending. Relief may include

- payment of maintenance and/or child support.
- sole possession of a jointly-owned or -leased dwelling.
- an injunction against the transfer, damage or disposition of marital assets.
- counseling, social services, and/or domestic violence education to be paid for by the respondent.

§ 5-2-9-2.1 is amended to allow for the availability of protection orders in

- paternity actions.
- child in need of services proceedings.
- juvenile delinquency actions.

# IOWA



## **LEGISLATURE MEETS:**

Annually starting in January and ending in April or May.

## **MISCELLANEOUS:**

§ 513B.9A is enacted to prohibit insurance carriers or policies from discriminating on account of conditions arising out of acts of domestic violence.

# KANSAS



## **LEGISLATURE MEETS:**

Annually starting in January and lasting 125 to 145 calendar days.

## **MISCELLANEOUS:**

Chapter 40 is amended to prohibit insurance discrimination against victims of domestic violence.



## **LEGISLATURE MEETS:**

Annually. In even-numbered years, sessions start in April and run no longer than 45 calendar days. In odd-numbered years, sessions start in March and run no longer than 85 calendar days.

## **CIVIL ORDERS FOR PROTECTION:**

Article 1568 is amended to permit the addresses of petitioners to remain confidential.

Article 327.1 is enacted to provide for orders issued pursuant to bail restrictions to be registered with the state Protective Order Registry.

Article 871.1 is enacted to provide for orders issued pursuant to sentencing to be registered with the state Protective Order Registry.

§ 2136 is enacted to provide that the clerk shall forward orders to the state Protective Order Registry as expeditiously as possible but no later than the end of the next business day after the order is filed.

§ 2136.1 is enacted to mandate that all costs, attorney fees, evaluation fees and expert witness fees for the abused adult and/or for any of the children, including charges for medical and psychological care, when those charges are necessitated by domestic violence, are to be paid by the perpetrator of the violence.

§ 2136.2 is enacted to create a statewide registry for abuse prevention orders and requires the courts to use a Uniform Abuse Prevention Order for all such orders.

The law encompasses

- peace bonds.
- temporary restraining orders.
- protection orders.
- preliminary injunctions.
- court-approved consent agreements preventing violent or threatening acts or harassment of another person.

The registry is to be made available to state and local law enforcement officers, prosecutors, and the courts.

## **MISCELLANEOUS:**

§ 22.250.3 is enacted to prohibit insurance discrimination against victims of domestic violence.

§ 46:460.1 is enacted to require promulgation of rules and regulations establishing exceptions to time limits for receiving public assistance in a case where an individual is a past or present victim of domestic violence or is at risk of further domestic violence and, as a result, is unable to comply with time limit requirements.

§ 46:460.4 is enacted to require

- the secretary of the department of social services to waive for as long as necessary and for good cause any public assistance program requirement which creates obstacles between victims of domestic violence and safety. Such restrictions include time limits; work, training, or educational requirements; limitations on assistance to noncitizens; residency requirements; and requirements to cooperate in establishing child support or paternity.
- information regarding a recipient's victimization to be kept confidential except as provided by law.

# MAINE



## **LEGISLATURE MEETS:**

Annually. The annual session starts in December following the November election in an even-numbered year and normally ends in June of the odd-numbered year. The next session starts in January of the even-numbered year and ends in April of that year.

## **MISCELLANEOUS:**

4 MRSA § 183 is enacted to create a Family Division of the District Court.

5 MRSA § 3762 is enacted to require that applicants for public assistance receive written and oral notice of the availability of services for victims of domestic violence. Applicants who so request are exempted from requirements which must be met in order to obtain ongoing assistance pending determination of their qualification; if they are granted exemption, they may access services on a voluntary basis.

19-A MRSA § 4013 is enacted to establish a Domestic Abuse Homicide Review Panel to review deaths of persons who are killed by family or household members.

# MARYLAND



## **LEGISLATURE MEETS:**

Annually starting in January and ending in April.

## **CRIMINAL PENALTIES AND PROCEDURES:**

Article 27 § 700G is enacted to require that victims who have filed notification requests receive 90-day advance notice before convicted offenders are granted predetermined parole release agreements.

§ 762 is enacted to prohibit retaliation against a victim or witness for reporting a crime or testifying against an accused.

§ 763 is enacted to allow a criminal or delinquency court, upon a showing of good cause, to issue any orders necessary to protect a victim or witness. Such orders may include no-contact provisions enforceable through the court's contempt power, and revocation of a defendant's pretrial release.

§ 770 is enacted to provide that upon first contact with the victim, the law enforcement officer, commissioner or intake officer must give the victim a written notification of rights. Within 10 days of filing or unsealing an indictment or information in circuit court, the state's attorney must mail the victim a copy of the victim notification form and inform certain victims of juveniles of their right to request restitution. The state's attorney must advise victims who file victim notification forms about all proceedings which affect them.

§ 771 is enacted to allow victims, witnesses or the state on their behalf to request confidentiality of their addresses and telephone numbers pending trial.

§ 772 is enacted to allow the above parties to request that addresses and telephone numbers be kept confidential during criminal proceedings.

§ 780 is enacted to give victims the right to address the sentencing judge in person or through a representative.

§ 786 is enacted to give victims the right to be notified of

- parole hearings.
- revocation hearings.
- issuance of a warrant for the offender.
- consideration of an offender's pardon, commutation, or remission of sentence.

§ 788 is enacted to require notification to victims who so request that a warrant or subpoena has been issued against their offenders.

§ 789 is enacted to require victims who so request to receive notification of their offenders' confinement.

§ 799 is enacted to require that a law enforcement officer responding to a domestic violence call give the victim written notification that the victim may request the filing of criminal charges against the abuser.

§ 800 is enacted to require for every domestic violence investigation that the police file a domestic violence incident report to the State Police and provide the victim a copy.

§ 806 is enacted to allow the court to use the offender's property or up to 20% of earnings derived from work release to offset unpaid ordered restitution to the victim.

§ 857 is enacted to allow victims who so request to attend any proceeding in which the defendant has the right to appear.

## **MISCELLANEOUS:**

Article 27 § 504 is enacted to prohibit insurance discrimination against victims of domestic violence.



## **LEGISLATURE MEETS:**

Annually starting in January. Sessions may last until the following January.

## **FAMILY AND CHILDREN:**

MGLA 208 § 28 is enacted to prohibit the court from allowing one parent convicted of murdering the other to have visitation rights with any of their children not old enough to consent to the contact.

## **PENDING BEFORE THE LEGISLATURE:**

S.B. 1831 proposes the following changes to Chapter 265 § 43 (stalking law)

- expanding the definition of “threats” to include those expressed or implied by way of physical or verbal conduct or both.
- expanding jurisdiction to include parties who have been in a substantive dating relationship.
- mandating weapons suspension.
- allowing the court to hold hearings outside the courthouse if necessary to accommodate a plaintiff’s physical condition.

S.B. 1829 proposes that the secretary of state establish an Address Confidentiality for Victims of Domestic Violence Program under which a participant

- may request that state and local agencies use as his or her address an address designated by the secretary of state.
- may apply as a specially qualified voter and be eligible for an absentee ballot.
- may receive state, local and nonprofit agency assistance in applying for the program.
- may have her address released only by request of the chief commanding officer of a law enforcement agency or by court order.

H.B. 4696 proposes that victims of sexual assault and domestic violence not be compelled to reveal whether they have received counseling services unless the court so requires upon written motion. The court would be required to examine privately any such records and seal those not necessary to the proceeding. Necessary records could be released to counsel for review solely as officers of the court; the records could not be copied; counsel could not use them in any other proceedings without permission of the court; and all material would have to be returned after the trial. The burden would be on the defendant to demonstrate that disclosure of the records is necessary for a fair trial.

# MICHIGAN



## **LEGISLATURE MEETS:**

Sessions run for two years, starting in January in odd-numbered years and ending in December of the following even-numbered year.

## **CRIMINAL PENALTIES AND PROCEDURES:**

764.15a (enacted in late 1996) is amended to expand warrantless arrests for acts of domestic violence to include cases where the defendant has had a child in common with the victim.

## **PENDING BEFORE THE LEGISLATURE:**

S.B. 74 and S.B. 434, which would amend 1956 PA 218 to prohibit insurance discrimination against victims of domestic violence.

# MINNESOTA



## **LEGISLATURE MEETS:**

Annually. In even-numbered years, sessions start in January and normally end in May. In odd-numbered years, sessions start in January or February and end in March or April.

## **CRIMINAL PENALTIES AND PROCEDURES:**

Chapter 609 is enacted to authorize the establishment of restorative justice programs to provide alternatives to prosecution in appropriate cases. The program brings victim and offender together to

- discuss the impact of the offense.
- assign the appropriate sanction to the offender.
- provide methods for reintegrating the offender into the community.

Chapter 609 § 12 permits each judicial district to establish a family violence coordinating council for the purpose of promoting innovative efforts to deal with family violence issues.

## **PREVENTION AND TREATMENT:**

- § 480.30 is amended to require judicial training, including
- education about the impact domestic abuse and domestic abuse allegations have on children.
  - the importance of considering these impacts when making visitation and child custody decisions.
  - information on alleged and substantiated reports of domestic abuse.

## PENDING BEFORE THE LEGISLATURE:

S.B. 609 would authorize enforcement of foreign protection orders and, for parties who do not reside in Minnesota, would establish the venue of an action in the county where an alleged violation occurred.

H.B. 1031, carried over to the 1998 session, sets forth requirements for visitation centers and would

- require that dissolution petitions include information about any orders for protection against either party.
- create the presumption of supervised visitation when an order of protection exists.
- impose standards for individuals who supervise visitation.
- increase the penalties for both first time and repeat violations of domestic abuse orders.



## LEGISLATURE MEETS:

In odd-numbered years beginning in January. The sessions are limited to 90 legislative days, normally ending in April.

## CRIMINAL PENALTIES AND PROCEDURES:

§ 45-5-202 is amended to add that a person who commits a felony assault against a partner or family member is required to pay for and complete a counseling assessment.

§ 45-5-206 is amended to provide that a conviction for felony assault against a partner or family member constitutes a conviction for purposes of calculating an offender's prior convictions to determine eligibility for an enhanced penalty.

## CIVIL ORDERS FOR PROTECTION:

§ 25-1-201 is amended to eliminate filing fees for orders for protection.

## FAMILY AND CHILDREN:

Title 52 is enacted to provide that, to determine eligibility to adopt, the court must consider

- whether the parent has been charged with or convicted of a crime of violence or of violating a protective order.
- the facts of the crime or violation.
- whether the parent's behavior indicates unfitness to maintain a parent-child relationship.
- evidence of any involvement in incidents of domestic violence by any person over 13 living in the prospective home.



## **LEGISLATURE MEETS:**

Annually beginning in January. Meets for 90 legislative days in odd-numbered years, ending in May. Meets for 60 legislative days in even-numbered years, ending in April.

## **CIVIL ORDERS FOR PROTECTION:**

§ 42-924 is amended to require enforcement of foreign protection orders.

§ 42-924.01 is amended to eliminate fees for protection orders unless the court finds by clear and convincing evidence that the application statements were false and the order sought in bad faith.

§ 42-924.02 is amended to require the state court administrator to establish uniform forms for all protection orders.

## **PENDING BEFORE THE LEGISLATURE:**

L.B. 756 would allow law enforcement officers to arrest a defendant for violating a no-contact order of a bond.

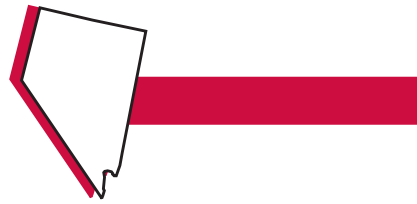
## **LEGISLATIVE INTERIM STUDY RESOLUTIONS:**

L.R. 207 to study whether the state should permit insurance discrimination against victims of domestic violence.

L.R. 277 to examine the feasibility of implementing a statewide automated victim notification system.

L.R. 282 to examine a number of issues affecting women, including domestic violence.

- L.R. 227 to study the efficacy of existing laws intended to protect victims of domestic violence and to consider enacting other measures, including
- making domestic abuse a distinct crime.
  - amending the definition of domestic abuse.
  - requiring mandatory minimum sentencing for domestic abuse crimes.
  - terminating parental rights upon evidence of domestic abuse.
  - expanding economic support of victims by their abusers.
  - establishing funding sources for shelters.
  - establishing a statewide registry for protection orders.



## **LEGISLATURE MEETS:**

In odd-numbered years beginning in January and normally ending in June of that year.

## **DEFINITIONS:**

Chapter 171.1225 is amended to expand domestic violence to include acts against a spouse, former spouse, any other person related by blood or marriage, a person with whom the abuser is or was residing, a person with whom the abuser has had or is engaged in a dating relationship, a person with whom the abuser has a child in common, or a minor child of the parties or either of them.

## **CRIMINAL PENALTIES AND PROCEDURES:**

Chapter 171 is amended to require a peace officer to submit a written report on every domestic call, whether or not an arrest is made, including an indication of who was the primary aggressor. If the officer detains the suspect, the officer must obtain a fingerprint and forward it to the state central repository for criminal records.

Chapter 176.1853 is amended to expand probation orders to include

- any reasonable condition to protect the health, safety and welfare of the community or to ensure the probationer will appear in court as ordered.
- an order to remain in the state or a specific county.
- an order to have no direct or indirect contact with another designated person.
- an order to prohibit going to a specific area, or engaging in conduct that may be harmful to the health, safety or welfare of any person.

Chapter 178.4851 is amended to allow the court to release without bail only those defendants upon whom it can impose conditions of release adequate to protect the health, safety and welfare of the community and ensure their reappearance. Such conditions include those contained in Chapter 176.1853, above.

Chapter 213 is amended to give the parole board the power to impose the above conditions on parolees in order to protect the health, safety and welfare of the community.

Chapter 178.484 is amended to enhance bail amounts for accused batterers. In cases where there is no substantial bodily injury to the victim, a defendant with no previous convictions may be released on \$3,000 bail without appearing personally before the magistrate. The bail is \$5,000 if there was substantial bodily injury or a previous conviction for battery without substantial bodily harm. The bail is raised to \$15,000 if the previous conviction involved substantial bodily harm or there were two or more previous convictions of battery.

Chapter 179A is amended to add to the state central repository orders for protection against domestic violence. Such orders must be entered within 8 hours of receipt and must be accessible to criminal justice agencies by computer at all times.

Chapter 4.373 is amended to provide that an offender convicted of misdemeanor domestic violence must serve a required period of confinement and then may have the remainder of the sentence suspended on condition of participation in alcohol and drug treatment and/or domestic violence treatment and compliance with such other conditions as the court imposes.

Chapter 41.135 is amended to bar persons convicted of domestic battery from suing their victims for personal or property damages sustained in connection with their offenses.

Chapter 200 is amended to provide for

- enhanced penalties for subsequent domestic batteries. Penalties include an increasing scale of fines and imprisonment terms, together with participation in batterer's intervention and/or alcohol and drug treatment programs.
- defendants to be required to pay \$35, to help fund domestic violence programs for police and the office of the ombudsman for victims of domestic violence.
- no dismissal of domestic battery charges in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge, or for any other reason unless the prosecutor knows, or it is obvious, that the charge is not supported by probable cause or cannot be proven at the time of trial.
- no probation or suspension of the sentences of domestic violence offenders.
- no release of domestic violence offenders to residential confinement unless they are found to pose no threat to their victims.

## **CIVIL ORDERS FOR PROTECTION:**

Chapter 33.050 is amended to defer costs and fees for an applicant for a temporary or extended order for protection and to require such costs and fees to be assessed against the adverse party.

## **FAMILY AND CHILDREN:**

Chapter 125A.050 is amended to add as a factor in custody considerations evidence of domestic violence between the parents.

Chapter 232 is amended to create a task force of child and family services, in consultation with the state domestic violence prevention council, to review the role of child protective agencies and the criminal justice system in eliminating the impact of domestic violence on children.

## **MISCELLANEOUS:**

Chapters 689 and 695 are amended to prohibit insurance discrimination against victims of domestic violence.

Chapter 41 is amended to allow persons injured as a result of domestic violence to sue to recover actual damages including real or personal property damages. The court is to award successful plaintiffs their costs and reasonable attorney's fees.

Chapter 228 is amended to create the Office of the Ombudsman for Victims of Domestic Violence within the Office of the Attorney General. The Ombudsman is to

- prepare reports from information collected in the state central criminal history repository.
- provide assistance to victims.
- educate the public about domestic violence.
- appoint a committee to certify batterer treatment programs.
- review and certify those programs.
- review and evaluate peace officer training.
- provide legal services, including assistance to domestic violence victims in divorce actions.

Chapter 217 is amended to allow a victim of domestic violence to file with the Secretary of State to establish a fictitious address.

# NEW HAMPSHIRE



## **LEGISLATURE MEETS:**

Annually starting in January and lasts for 45 legislative days or until July 1, whichever comes first.

## **MISCELLANEOUS:**

Chapter 420-G is amended to prohibit insurance discrimination against victims of domestic violence.

# NEW JERSEY



## **LEGISLATURE MEETS:**

Annually from January through June and from September through December.

## **MISCELLANEOUS:**

Chapter 17B:27A-2 is amended to prohibit insurance discrimination against victims of domestic violence.

## **PENDING BEFORE THE LEGISLATURE:**

A.B. 3209 would exclude victims of domestic violence from a duty to retreat before using deadly force against an assailant by providing that such a victim has no duty to retreat from a household member in their shared dwelling.

A.B. 2516 would render ineligible for parole inmates who violate or attempt to violate restraining orders or harass their victims while they are in detention.

A.B. 197 would create a central registry for restraining orders financed through a \$10 surcharge imposed on firearms purchases and accessible to police for checking firearms purchasing cards and permits.

S.B. 88 would enhance the violations of restraining orders, including foreign protection orders, when they constitute crimes of assault.

S.B. 71 would include as an aggravating factor murder in violation of a restraining order.

S.B. 2026 would allow persons to take family leave from employment to deal with domestic violence and its aftermath.

# NEW JERSEY

S.B. 1059 would

- mandate that police seize weapons upon probable cause to believe that domestic violence has occurred.
- permit the prosecutor to petition the court to dispose of the weapons of an owner found to be subject to forfeiture because of domestic violence.
- upon the issuance of any restraining order, bar the defendant from receiving a firearms purchaser identification card or permit to purchase a handgun for a period of at least two years or during the period the order is in effect.

# NEW MEXICO

## **LEGISLATURE MEETS:**

Annually starting in January. In odd-numbered years sessions are limited to 60 calendar days, normally ending in March. In even-numbered years, sessions are limited to 30 calendar days, normally ending in February.

## **CIVIL ORDERS FOR PROTECTION:**

§ 40-13-6 is amended to remove the costs for filing or serving protection orders.

## **MISCELLANEOUS:**

§§ 59A-16B-2, -3, and -4 are enacted to prohibit insurers from discriminating against victims of domestic violence.



## **LEGISLATURE MEETS:**

Annually starting in January. Meets all year but the majority of work is done by July.

## **PREVENTION AND TREATMENT:**

§ 2803-P of the Public Health Law is amended to require that hospitals provide parents of newborn infants information concerning domestic violence, including its effects and services available to victims and children.

## **MISCELLANEOUS:**

§ 575 is amended to direct the labor department to create a model domestic violence employee awareness and assistance program to be developed by a task force consisting of representatives from business, labor, directors of domestic violence programs and others. The purpose of the program is to develop the best practices, policies, protocols and procedures to make people aware of domestic violence in the workplace, assist affected employees, and provide a safe and healthy working environment for employees affected. The model plan must establish

- a definite corporate policy statement recognizing domestic violence in the workplace and the need to maintain job security for victims.
- the publication of such policies on bulletin boards and in restrooms.
- a listing of current community resources.
- a listing of measures to ensure safety, including designated parking areas and escort services.
- training programs.

## **PENDING BEFORE THE LEGISLATURE:**

A.B. 7709 would provide that victims of domestic violence in rent controlled properties forced to flee because of domestic violence would be permitted to retain such units as their primary residences.

A.B. 7953 would direct the parole board, in deciding whether to release an inmate on parole, to consider

- the inmate's status as a victim of domestic violence prior to incarceration.
- the inmate's efforts to counteract its effects while incarcerated.

S.B. 816 would allow the court to order restitution for custodial interference, including the costs incurred for finding and returning the child and medical and psychological treatment of such child for related harm. It would be an affirmative defense that

- the victim had been abandoned.
- the taking was necessary to protect the victim because of mistreatment or threats of mistreatment.
- the victim was taken by a parent or custodian fleeing an incidence or pattern of domestic violence.

S.B. 4462 would include in the statewide computer registry all orders for protection awarded victims of crimes.

S.B. 4677 would adopt the Family Violence Option (U.S. Senators Wellstone and Murray Amendment) waiver of federal assistance program requirements or penalty provisions for domestic violence services.

- S.B. 4812 would amend the rules of criminal procedure to admit into evidence the prior statements of a victim of domestic violence refusing to cooperate with the prosecution or recanting prior statements. To be admissible, such prior statements would have to be given in proximity to the offenses charged and corroborated by other evidence.
- S.B. 4875 would prohibit the state or its agents from compelling victims of domestic violence to have contact with their abusers, directly or indirectly, for any reason.
- S.B. 5083 would direct the Office of Prevention of Domestic Violence to study the feasibility of allowing victims of domestic violence to keep their new addresses confidential.



## **LEGISLATURE MEETS:**

Annually. In odd-numbered years, sessions start in January and have no statutory ending date. In even-numbered years, sessions usually start in May and last for four to six weeks.

## **DEFINITIONS:**

§ 50B-1 is amended to expand the definition of domestic violence to include persons who have had a personal relationship, defined as a relationship where the parties

- are current or former spouses.
- are persons of the opposite sex who live together or have in the past.
- have a child in common.
- are current or former household members.
- are related as parties and children, including others acting in loco parentis to a minor child, or as grandparents and grandchildren.

## **CIVIL ORDERS FOR PROTECTION:**

§ 50B-2(c1) is amended to allow the chief district court judge to authorize a magistrate to hear emergency protection petitions when the court is not in session.

§ 504B-4A is amended to increase the violation of a protection order to a class A1 misdemeanor.

## **MISCELLANEOUS:**

Article 68 of Chapter 58 is enacted to prohibit insurance discrimination against victims of domestic violence.

## **PENDING BEFORE THE LEGISLATURE:**

S.B. 754 would allow victims forced to leave their employment because of domestic violence to collect unemployment benefits.

# NORTH DAKOTA



## **LEGISLATURE MEETS:**

In odd-numbered years starting in January and ending in April.

## **MISCELLANEOUS:**

§ 26.1-36.3-01 is amended to prohibit insurance discrimination against victims of domestic violence.

# OHIO



## **LEGISLATURE MEETS:**

Annually starting in January. Sessions generally end in July in odd-numbered years and in June in even-numbered years.

## **DEFINITIONS:**

§ 3113.33 is amended to expand the definition of family or household member to include the putative other natural parent and those parties who have cohabited within the past five years.

## **CIVIL ORDERS FOR PROTECTION:**

§§ 1901.19, 1907.18 and 2919.272 are amended to require enforcement of foreign protection orders.

§ 737.11 is amended to require police to enforce anti-stalking orders and foreign protection orders.

§ 2919.26 is amended to provide that stay-away provisions of protection orders cannot be waived or nullified by the complainant or family members.

## **MISCELLANEOUS:**

§ 3901.21 is amended to prohibit insurance discrimination against victims of domestic violence.

# OKLAHOMA



## **LEGISLATURE MEETS:**

Annually beginning with a one-day organization session in January. The legislative session begins in February and ends in May.

## **CRIMINAL PENALTIES AND PROCEDURES:**

Title 21 § 567 is amended to provide that victims alleging offenders to be in indirect contempt of protection orders need not attend arraignments or first appearances unless they are seeking to have the offenders held pending payment of cash bonds.

# OREGON



## **LEGISLATURE MEETS:**

In odd-numbered years, starting in January and ending in June or July.

## **DEFINITIONS:**

§107.705 is amended to expand the definition of abuse to include

- interfering—hindering or impeding a person in the petitioner's situation.
- intimidating—threatening a person, thereby compelling or deterring conduct by that person.
- menacing—threatening a person.
- molesting—acting with hostile or injurious intent to annoy, disturb or persecute a person in the petitioner's position.

## **CRIMINAL PENALTIES AND PROCEDURES:**

§ 163.160 is amended to enhance the penalty for assault if

- the offender has been convicted previously of assaulting the same victim.
- the assault was witnessed by a minor child belonging to the parties or to either of them.

## **CIVIL ORDERS FOR PROTECTION:**

§ 419B.190 is amended to provide that

- the court may order a peace officer to accompany the restrained person to the household to remove personal property.
- entry of the order into the state Data System constitutes notice to all law enforcement agencies of the order.
- each agency must inform its officers of the orders entered.
- orders remain in effect for one year or until modified, amended or terminated by court order.

§107.725 is amended to allow the court to renew protection orders upon a finding after an ex parte or full hearing that the protected person would reasonably fear further abuse if the order were terminated.

## **FAMILY AND CHILDREN:**

§ 107.137 is amended to mandate that courts consider as a factor in custody determinations the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child. However, the statute excepts cases where the evidence shows that one parent has sexually assaulted or engaged in a pattern of abusive behavior against the other or the child, so that a continuing relationship will endanger the health and safety of either of them.

§ 107.755 is amended to mandate

- a mediation orientation session for all parties, which includes a plan to address domestic violence and other power imbalance issues in the context of mediation.
- recognition by mediators that mediation is not always appropriate.
- that restraining orders may not be mediated.
- that parties may opt out of mediation.
- that steps be taken to minimize the likelihood of intimidation or violence in orientation sessions, during mediation, and on the way to or from mediation sessions.
- continuing education regarding domestic violence for all mediators.

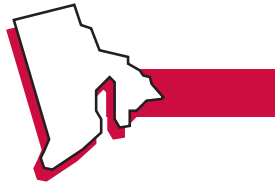
## **MISCELLANEOUS:**

§ 746.015 is amended to prohibit insurance discrimination for victims of domestic violence.

Chapter 411 is enacted to require the Adult and Family Services Division to

- identify present and past victims of domestic violence or those at risk.
- waive or modify temporary assistance to needy families program requirements which may make it more difficult for individuals to escape domestic violence or may place them at further risk. Requirements to be waived or modified include
  - ◇ time limits on receiving benefits.
  - ◇ work requirements.
  - ◇ cooperation with efforts to establish paternity and child support.
  - ◇ residency requirements.
  - ◇ family cap provisions.
  - ◇ penalties for noncompliance.

# RHODE ISLAND



## LEGISLATURE MEETS:

Annually starting in January and generally ending in May.

## CRIMINAL PENALTIES AND PROCEDURES:

§ 12-29-4 is amended to allow the court to issue a no-contact order at the time of disposition of a domestic violence case.

§ 12-29-5 is amended to add that all convicted domestic violence offenders, in addition to any other conditions, be ordered to attend at their own expense a batterer's intervention program.

## PREVENTION AND TREATMENT:

§ 12-29-5.1 is amended to create a Batterer Intervention Standards Oversight Committee which shall

- include among its members the Director of the state Coalition Against Domestic Violence.
- establish minimum standards for such programs, requiring them to involve psycho-educational groups of at least 40 contact hours over the course of 20 weeks and requiring batterers to pay on a sliding scale.
- certify and monitor programs.
- investigate and decide appeals, complaints and requests for variances from batterers.

## MISCELLANEOUS:

§ 27-59-3 is enacted to prohibit insurance discrimination against victims of domestic violence.

# SOUTH CAROLINA



## LEGISLATURE MEETS:

Annually starting in January and generally ending in June.

## FAMILY AND CHILDREN:

§ 20-7-1530 is enacted to require the court in making custody decisions to

- consider physical or sexual abuse perpetrated by a parent.
- consider evidence of which party was the primary aggressor.
- disregard the absence from the home or relocation of a parent against whom an act of domestic violence has been perpetrated if that parent was not the primary aggressor.

§ 20-7-1557 is enacted to prohibit visitation to a perpetrator of domestic violence unless the court finds that adequate protection can be provided the child and the victim of the violence. To ensure protection, the court may

- order an exchange of a child to occur in a protected setting.
- order supervised visitation.
- order the perpetrator to attend counseling.
- order the perpetrator to abstain from possession or consumption of alcohol or drugs during visitation and for 24 hours before.
- order the perpetrator to pay a fee for supervised visitation.
- prohibit overnight visitation.
- require a bond for the safe return of the child if the perpetrator has threatened to retain the child.
- impose any other conditions necessary to protect the victim or the child.

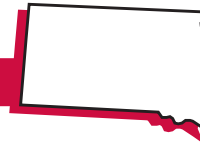
The judge may on his own motion limit or bar visitation to provide for the child or victim's safety and order the address of the child and parent to be kept confidential. The court must order the perpetrator to pay the costs of any medical or psychological treatment of a child who is injured as a result of one or more acts of domestic violence.

# SOUTH CAROLINA

## **PENDING BEFORE THE LEGISLATURE:**

S.B. 820 would allow a person to use necessary force to defend self or others against another person's imminent use of unlawful force. Relevant evidence to establish justification for use of force would include

- that the defendant had been the victim of domestic violence.
- expert testimony regarding the defendant's state of mind at the time.
- facts and circumstances relating to domestic violence.



# SOUTH DAKOTA

## **LEGISLATURE MEETS:**

Annually starting in January. In odd-numbered years, sessions are limited to 40 legislative days and end in March. In even-numbered years, sessions are limited to 35 legislative days and end in February.

## **CRIMINAL PENALTIES AND PROCEDURES:**

§ 25-10-13 is enacted to enhance penalties for violations of protection orders and violations constituting assault.

## **MISCELLANEOUS:**

§ 58-18B-27 is enacted to prohibit insurance discrimination against victims of domestic violence.



## **LEGISLATURE MEETS:**

Annually starting in January for approximately 45 legislative days ending in May.

## **CIVIL ORDERS FOR PROTECTION:**

§ 36-3-606 is amended to provide that orders for protection are valid and enforceable across the state.

## **FAMILY AND CHILDREN:**

§ 36-6-411 is amended to permit the court to order mediation in cases involving domestic violence only if

- the victim agrees.
- mediation is provided by a certified mediator who is trained in domestic violence.
- the victim is allowed to be accompanied by an attorney, advocate or other person.

§ 36-6-412 is amended to provide that a permanent parenting plan shall not require mutual decision-making or designation of a dispute resolution process in cases where there has been

- physical or sexual abuse.
- a pattern of child or partner abuse.
- a history of abuse.
- a single assault or sexual assault which caused serious bodily injury or fear of such injury.

Any parent who has engaged in such abuse shall have residential time with the child limited. Further involvement in the parenting plan may be precluded or limited if the court finds that

- a parent's abusive use of conflict created the danger of damage to the child's psychological development.
- one parent has withheld from the other access to the child for a protracted period without good cause.

## **MISCELLANEOUS:**

Chapter 7 of Title 56 is amended to prohibit insurance discrimination against victims of domestic violence.



## **LEGISLATURE MEETS:**

In odd-number years, starting in January and normally ending about the end of May. Sessions are constitutionally limited to 140 calendar days.

## **CRIMINAL PENALTIES AND PROCEDURES:**

§ 25.07 of the Penal Code is amended to enhance penalties for first and subsequent violations of a protection order.

§ 46.06 of the Penal Code is amended to make it an offense for a person knowingly to purchase, rent, lease or receive as a loan or gift a handgun while an active protection order is directed against him.

## **CIVIL ORDERS FOR PROTECTION:**

Chapter 71 of the Family Code contains a number of amendments pertaining to protection orders, as follows:

§ 81.002 is amended to prohibit assessing fees for protection orders against petitioners or their attorneys.

§ 81.003 is amended to require an offender convicted of a family violence offense to pay a \$16 protection order fee in addition to whatever other fees are incurred.

§ 82.002 is amended to allow an adult member of a family or household or any adult to file for a protection order on behalf of a child and provides that the child will be considered the applicant for the order.

§ 82.041 is amended to provide for uniform protection orders which comply with federal full faith and credit requirements for entry into the FBI's National Protection File.

§ 85.022 is amended to permit courts to order abusers into battering intervention and prevention programs which comply with the state's Department of Criminal Justice standards.

§ 85.024 is amended to require that

- defendants ordered into counseling must within 60 days of sentencing file an affidavit that they entered treatment and completed the program 30 days before expiration of the protection order.
- the affidavit be accompanied by a notice of completion from the program or counselor. Failure to comply may be prosecuted as contempt of court.

§ 85.061 is amended to prohibit courts from delaying or dismissing a protection order application because a suit for dissolution of marriage or suit affecting the parent-child relationship is filed.

§ 85.062 is amended to provide that, where a suit of marriage dissolution or suit affecting the parent-child relationship is pending, the petitioner may file for an order for protection either in the same court or in the court where the petitioner resides.

§ 85.063 is amended to provide that if a final order has been rendered in a suit for dissolution of marriage or suit affecting the parent-child relationship, an application for a protection order may be filed in the same court which rendered the final order or in another county, where it will be subject to transfer to the first court.



§ 85.065 is amended to provide that a transferred order shall be enforced as it would have been before transfer and that the receiving court has full power to punish a violation before or after the transfer is completed. Modifications of orders may be made in the transferred court just as in the original court.

§ 86.005 is amended to provide that law enforcement officers may enforce protection orders in reliance on

- information from other jurisdictions.
- a copy of an order from any source.
- the word of the person protected by the order.

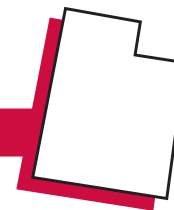
§ 88.001 is amended to require enforcement of foreign protection orders.

§ 88.002 is amended to provide that foreign protection orders be presumed valid.

§ 88.004 is amended to mandate that foreign protection orders be enforced even if not entered into the state's Department of Public Safety information system.

## **FAMILY AND CHILDREN:**

§ 153.131 of the Family Code is amended to create a rebuttable presumption that the appointment of the parents of a child as joint managing conservators is in the best interest of the child, except where there is a finding of a history of family violence involving the parents of the child.



## **LEGISLATURE MEETS:**

Annually starting in January and ending in February. Sessions are limited to 45 calendar days.

## **CRIMINAL PENALTIES AND PROCEDURES:**

§ 76-5-1091 is amended to provide that committing an act of domestic violence where a child of the household can see or hear the act is

- a third degree felony if the domestic violence act is a homicide, causes serious bodily injury or involves use of a dangerous weapon.
- otherwise a class A misdemeanor if committed on two or more occasions.

## **PREVENTION AND TREATMENT:**

§ 63-25a-204 is enacted to create a Treatment Committee within the Governor's Office, whose membership is to include a substance abuse counselor and a domestic violence treatment professional appointed by the Domestic Violence Advisory Board.

§ 63-25a-201 is enacted to create the Utah Substance Abuse and Anti-Violence Coordinating Council within the Governor's Office, whose membership is to include the chair of the Domestic Violence Advisory Council.

## **MISCELLANEOUS:**

§§ 31A-21-501 and -503 are enacted to prohibit insurance discrimination against victims of domestic violence.



## **LEGISLATURE MEETS:**

Annually starting in January. Sessions run for 60 days in even-numbered years and for 45 days in odd-numbered years.

## **CRIMINAL PENALTIES AND PROCEDURES:**

§ 19.2-81.3 is amended to provide that, whether or not an officer arrests anyone at the scene of a domestic violence call, the officer shall give the person alleging abuse oral and written information about legal and community resources available to victims.

## **CIVIL ORDERS FOR PROTECTION:**

§ 16.1-253.1 is amended to establish procedures and timelines for entering preliminary protection orders, serving the orders and conducting hearings to determine whether permanent orders should be issued.

§ 16.1-253.4 is amended to give judges and magistrates power to issue emergency ex parte orders upon reasonable grounds to believe that the respondent has committed family abuse and that probable danger of further abuse exists. Under the new procedure

- a law enforcement officer may request an emergency protection order orally, in person or by electronic means.
- the court or magistrate may issue an oral emergency protection order.
- the law enforcement officer must reduce the oral emergency protection order to writing in a document which includes the grounds upon which the order was sought and granted.
- as soon as practicable, the order is to be entered into the state network system, served and a copy forwarded within five days for verification by the judge or magistrate who issued it.

§ 16.1-279.1 is amended to require enforcement of foreign protection orders.

## **MISCELLANEOUS:**

§ 38.2-3431 is amended to prohibit insurance discrimination against victims of domestic violence.

# WASHINGTON



## **LEGISLATURE MEETS:**

Annually starting in January. Sessions run for 60 calendar days in even-numbered years and for 105 days in odd-numbered years.

## **CRIMINAL PENALTIES AND PROCEDURES:**

RCW 10.99.040 is amended to add the crime of drive-by shooting to other offenses which constitute a felony if committed while the defendant is on release pending a domestic violence charge.

RCW 10.99.050 is amended to mandate that when a defendant is convicted of a crime of domestic violence and a condition of the sentence restricts his contact with the victim, notice of such restrictions must be recorded and sent to the victim. The statute establishes a schedule of enhanced penalties for subsequent violations of protection orders and a system for entering orders into the state's central repository.

# WEST VIRGINIA



## **LEGISLATURE MEETS:**

Annually starting in January and normally ending in March. In the first year of a governor's four-year term, the session normally ends in April.

## **MISCELLANEOUS:**

§§ 33-15-2a and -2b are enacted to prohibit insurance discrimination against victims of domestic violence.

# WYOMING



## **LEGISLATURE MEETS:**

Annually. Sessions begin in February and run for 20 calendar days in even-numbered years. In odd-numbered years, sessions start in January and run for 40 calendar days.

## **CIVIL ORDERS FOR PROTECTION:**

§ 35-21-108 is enacted to mandate that district court protection orders supersede any other orders. Any order allowing a criminal defendant's conditional release shall include by reference all terms and conditions of protection orders to which the defendant and petitioner are parties.

## **MISCELLANEOUS:**

§ 26-19-107 is amended to prohibit insurance discrimination against victims of domestic violence.

## STATE DOMESTIC VIOLENCE COALITIONS

**Alabama Coalition Against Domestic Violence**  
(334) 832-4842

**Alaska Network on Domestic Violence and Sexual Assault**  
(907) 586-3650

**Arizona Coalition Against Domestic Violence**  
(602) 279-2900

**Arkansas Coalition Against Domestic Violence**  
(501) 812-0571

**California Alliance Against Domestic Violence**  
(916) 444-7163

**Colorado Coalition Against Domestic Violence**  
(303) 831-9632

**Connecticut Coalition Against Domestic Violence**  
(860) 524-5890

**Delaware Coalition Against Domestic Violence**  
(302) 658-2958

**District of Columbia Coalition Against Domestic Violence**  
(202) 783-5332

**Florida Coalition Against Domestic Violence**  
(904) 671-3998

**Georgia Coalition on Family Violence, Inc.**  
(770) 984-0085

**Hawaii State Coalition Against Domestic Violence**  
(808) 486-5072

**Idaho Coalition Against Sexual and Domestic Violence**  
(208) 384-0419

**Illinois Coalition Against Domestic Violence**  
(217) 789-2830

**Indiana Coalition Against Domestic Violence**  
(317) 543-3908

**Iowa Coalition Against Domestic Violence**  
(515) 244-8028

**Kansas Coalition Against Sexual and Domestic Violence**  
(913) 232-9784

**Kentucky Domestic Violence Association**  
(502) 875-4132

## STATE DOMESTIC VIOLENCE COALITIONS

**Louisiana Coalition Against Domestic Violence**  
(504) 752-1296

**Maine Coalition for Family Crisis Services**  
(207) 941-1194

**Maryland Network Against Domestic Violence**  
(301) 352-4574

**Massachusetts Coalition of Battered Women Service Groups**  
(617) 248-0922 x205

**Michigan Coalition Against Domestic and Sexual Violence**  
(517) 347-7000

**Minnesota Coalition for Battered Women**  
(612) 646-6177

**Mississippi Coalition Against Domestic Violence**  
(601) 981-9196

**Missouri Coalition Against Domestic Violence**  
(573) 634-4161

**Montana Coalition Against Domestic and Sexual Violence**  
(406) 443-7794

**Nebraska Domestic Violence and Sexual Assault Coalition**  
(402) 476-6256

**Nevada Network Against Domestic Violence**  
(702) 358-1171

**New Hampshire Coalition Against Domestic and Sexual Violence**  
(603) 224-8893

**New Jersey Coalition For Battered Women**  
(609) 584-8107

**New Mexico Coalition Against Domestic Violence**  
(505) 246-9240

**New York State Coalition Against Domestic Violence**  
(518) 432-4864

**North Carolina Coalition Against Domestic Violence**  
(919) 956-9124

**North Dakota Council on Abused Women's Services**  
(701) 255-6240

**Ohio Domestic Violence Network**  
(614) 784-0023

## STATE DOMESTIC VIOLENCE COALITIONS

**Oklahoma Coalition on Domestic Violence and Sexual Assault**  
(405) 557-1210

**Oregon Coalition Against Domestic and Sexual Violence**  
(503) 223-7411

**Pennsylvania Coalition Against Domestic Violence**  
(717) 545-6400

**Rhode Island Coalition Against Domestic Violence**  
(401) 467-9940

**South Carolina Coalition Against Domestic Violence and Sexual Assault**  
(803) 750-1222

**South Dakota Coalition Against Domestic Violence and Sexual Assault**  
(605) 945-0869

**Tennessee Task Force Against Domestic Violence**  
(615) 386-9406

**Texas Council on Family Violence**  
(800) 525-1978

**Utah Domestic Violence Advisory Council**  
(801) 538-9886

**Vermont Network Against Domestic Violence and Sexual Assault**  
(802) 223-1302

**Virginians Against Domestic Violence**  
(757) 221-0990

**Washington State Coalition Against Domestic Violence**  
(360) 407-0756

**West Virginia Coalition Against Domestic Violence**  
(304) 965-3552

**Wisconsin Coalition Against Domestic Violence**  
(608) 255-0539

**Wyoming Coalition Against Domestic Violence and Sexual Assault**  
(307) 755-5481

## STATE LEGISLATIVE CONTACTS

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(334) 242-7560

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(907) 465-4648

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(501) 682-1937

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(916) 445-3614

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(202) 724-8080

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(404) 656-5015

**Georgia Office of the Secretary of the Senate**  
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(808) 587-0666

**Idaho Legislative Library**  
(208) 334-2475

**Illinois Legislative Research Unit**  
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**Indiana Office of Legislative Information**  
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**Iowa Legislative Information Office**  
(515) 281-5129

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**Michigan Clerk of the House**  
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**Michigan Secretary of the Senate**  
(517) 373-2400

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mation Office**  
(612) 296-2146

**Minnesota Senate Information  
Office**  
(612) 296-0504

**Mississippi House of  
Representatives**  
(601) 359-3358

**Missouri Legislative Library,  
Committee on Legislative  
Research**  
(573) 751-4633

**Montana Legislative Services  
Division**  
(406) 444-3064

**Nebraska Clerk of the  
Legislature**  
(402) 471-2271

**Nevada Legislative Council  
Bureau**  
(702) 687-6800

**New Hampshire Reference and  
Information Services**  
(603) 271-2239

## STATE LEGISLATIVE CONTACTS

**New Jersey Legislative  
Information Service**  
(609) 292-4840

**New Mexico Legislative Council  
Service**  
(505) 986-4600

**New York Assembly Public Informa-  
tion Office**  
(518) 455-4218

**New York Office of the Secretary of  
the Senate**  
(518) 455-2051

**North Carolina Legislative Services  
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(919) 733-7044

**North Dakota Legislative Council**  
(701) 328-2916

**Ohio Legislative Service  
Commission**  
(614) 466-3615

**Oklahoma Legislative Reference  
Division, Oklahoma Division of  
Libraries**  
(405) 521-2502 (ext. 274)

**Oregon Administrator's Office,  
Legislative Administration  
Committee**  
(503) 986-1848

**Pennsylvania Library, Legislative  
Reference Bureau**  
(717) 787-4816

**Rhode Island Legislative  
Reference, State Library**  
(401) 222-2473

**South Carolina Legislative  
Council**  
(803) 734-2145

**South Dakota Legislative  
Research Council**  
(605) 773-3251

**Tennessee Office of Legislative  
Services**  
(615) 741-3511

**Texas Legislative Reference  
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(512) 463-1252

**Utah Office of Legislative  
Research and General Counsel**  
(801) 538-1032

**Vermont Legislative Council**  
(802) 828-2231

**Virginia Legislative Information  
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(804) 698-1500

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(360) 786-7750

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(360) 786-7550

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(304) 347-4800

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