



VAWA and the Courts

Promoting Effective Court Responses to Violence Against Women



AUGUST 2022

NEW MEXICO: REVIEW OF ITS FAMILY VIOLENCE PROTECTION ACT

REPORT ON TECHNICAL ASSISTANCE AND RESOURCES PROVIDED BY THE NATIONAL CENTER FOR STATE COURTS

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EXECUTIVE SUMMARY

The National Center for State Courts (NCSC) provided technical assistance to the New Mexico Senate Memorial 50: Family Violence Protection Act Task Force in support of its review of the New Mexico's Family Violence Protection Act (the Act) and development of recommendations to the state legislature for amending the Act in light of best practices and statutory approaches from other jurisdictions.

NCSC assisted with the identification of gaps, challenges, and opportunities for improvement in the Act, and compiled and presented information regarding best practices and alternative statutory approaches for consideration. This document describes the potential revisions explored by the Task Force with NCSC's support and the statutory approaches from other jurisdictions and other resources shared by NCSC.

Taskforce Goals Addressed in this Report:

- *Create separate "anti-harassment" protection orders for non-qualifying relationships.*
- *Create separate protection orders for sexual assault and/or stalking.*
- *Modernize the definition of "domestic abuse".*
- *Clarify and loosen requirements regarding the recency of abuse act supporting issuance of a protection order.*
- *Clarify court clerk role.*
- *Address service of process issues.*
- *Clarify relationship between protection order and criminal proceedings.*
- *Enhance enforcement requirements for protection orders.*
- *Mandate training for key stakeholders.*
- *Clarify duration of final orders*
- *Codify compliance review hearings*

CREATE SEPARATE “ANTI-HARASSMENT” PROTECTION ORDERS FOR NON-QUALIFYING RELATIONSHIPS

The Task Force considered whether to create a new type of protection order for petitioners seeking protection from abuse or harassment by individuals who are not intimate partners, family members, or otherwise do not fall within the Act’s definition of relationships that qualify for a protection order. The primary objective for such a statutory revision would be to alleviate the resource drain on NM courts that must address both intimate partner/family violence orders and those involving other relationships (including, for example, neighbor disputes). NCSC compiled and presented in matrices, attached as appendices to this document, of other jurisdictions’ statutory delineation of these different types of orders and relationships.

CREATE SEPARATE PROTECTION ORDERS FOR SEXUAL ASSAULT AND/OR STALKING

The impetus for this potential change is similar to that described above, and the matrices in the appendices provided examples of statutory approaches to this issue as well.

MODERNIZE THE DEFINITION OF “DOMESTIC ABUSE” (COERCIVE CONTROL, FINANCIAL, SEXUAL/ REPRODUCTIVE, MEDICAL, ETC.)

The FVPA does not incorporate a definition of domestic abuse that reflects the more comprehensive understanding of the types of abuse that can cause significant harm to victims, including children exposed to the abuse. NCSC gathered and shared examples of more expansive definitions in protection order codes from around the country, with a focus on the inclusion of coercive control. The Appendices includes these expansive definitions that NCSC presented to the Task Force.

Regarding coercive control, NCSC explained the need to balance two potentially conflicting goals: enacting a comprehensive definition that includes the various tactics people who engage in coercive control use versus preventing the true abusive partner from successfully alleging that the victim’s conduct is coercively controlling (e.g., by arguing that the true victim is controlling).

CLARIFY AND LOOSEN REQUIREMENTS REGARDING THE RECENCY OF ABUSIVE ACT SUPPORTING ISSUANCE OF A PROTECTION ORDER

The Task Force identified as a concern inconsistent judicial approaches to the question of whether an act giving rise to the alleged need for a protection order is sufficiently recent in time to support issuance of the order. To assist the Task Force with this question, NCSC compiled and shared examples from other states:

MASSACHUSETTS



“A court shall not deny any complaint filed under this chapter solely because it was not filed within a particular time period after the last alleged incident of abuse.”

ARIZONA



“The defendant has committed an act of domestic violence within the past year or within a longer period of time if the court finds that good cause exists to consider a longer period. ... For the purposes of determining the period of time ... any time that the defendant has been incarcerated or out of this state shall not be counted.”

OREGON



Must be within 180 days.

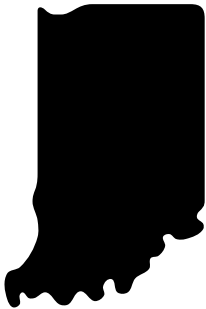
WASHINGTON (case law)



“Recent acts of domestic violence are not required in order to obtain or renew a domestic violence protection order. The petitioner must only show present fear of harm based on past violence or threats of violence.”

CLARIFY COURT CLERK ROLE

The Task Force explored statutory revisions to clarify that court clerks are not to serve a “gatekeeping” function that imposes rules or standards that prevent petitioners from having their requests for protection orders heard by the court. To assist with this issue, NCSC provided the following examples of statutory approaches from other states:



INDIANA CODE 34-26-5-3

- The clerk shall provide: all forms required for an order for protection and clerical assistance in reading or completing the forms and filing the petition.
- Clerical assistance provided by the clerk or court personnel under this section does not constitute the practice of law.



MISSOURI REV. STAT. 455.025

- Clerks shall explain to litigants not represented by counsel the procedures for filing all forms and pleadings necessary for the presentation of their petition to the court.
- Notice of the fact that clerks will provide such assistance shall be conspicuously posted in the clerks' offices.
- The location of the office where a petition can be filed shall be conspicuously posted in the court building.
- The performance of duties prescribed in this section shall not constitute the practice of law as defined in section 484.010, RSMo.
- All duties of the clerk prescribed in this section shall be performed without cost to the litigants.
- The supreme court may promulgate rules as necessary to govern conduct of court clerks under sections 455.010 to 455.085, and shall provide forms for petitions and written instructions on filling out all forms and pleadings necessary for the presentation of the petition to the court.

ADDRESS SERVICE OF PROCESS ISSUES

The Task Force identified exploring options for modernization of the service of process requirements under the Act as a focus area. Specifically, members expressed an interest in learning about statutory approaches that permit alternative service when personal service cannot be effected, as well as strategies to address service challenges (e.g., when the respondent cannot be located or evades service).

To support this investigation, NCSC reached out to Washington State to learn more about their approach to service of process in protection order cases and shared the recent revisions to the Washington statute, which includes a state-of-the-art treatment of alternatives to personal service. Specifically, the following summary of the statutory language was shared:



WASHINGTON HB1320 (2021)

- To minimize delays and the need for more hearings, which can hinder access to justice and undermine judicial economy, to lessen costs, to guarantee actual notice to the respondent, and to simplify and modernize processes for petitioners, respondents, law enforcement, and the courts, the following methods of service are authorized for protection order proceedings, including petitions, temporary protection orders, reissuances of temporary protection orders, full protection orders, motions to renew protection orders, and motions to modify or terminate protection orders.
- Personal service ... must be made by law enforcement to mitigate risks, increase safety, and ensure swift recovery of firearms in cases requiring the surrender of firearms, such as extreme risk protection orders and protection orders with orders to surrender and prohibit weapons; cases that involve transferring the custody of a child or children from the respondent to the petitioner; or cases involving vacating the respondent from the parties' shared residence. Personal service should also be used in cases involving a respondent who is incarcerated.



WASHINGTON HB1320 (2021)

- Service by electronic means must be effected by a law enforcement agency, unless the petitioner elects to have the respondent served by any person who is not a party to the action, is over 18 years of age and competent to be a witness, and can provide sworn proof of service to the court as required.
- Electronic service must be effected by transmitting copies of the petition and [other forms] at the respondent's electronic address or the respondent's electronic account associated with email, text messaging, social media applications, or other technologies.
- Verification of receipt may be accomplished through read-receipt mechanisms, a response, a sworn statement from the person who effected service verifying transmission and any follow-up communications such as email or telephone contact used to further verify, or an appearance by the respondent at a hearing.
- Service by mail is permitted when electronic service is not possible, and there have been two unsuccessful attempts at personal service or when the petitioner requests it in lieu of electronic service or personal service where personal service is not otherwise required.
- If electronic service and personal service are not successful, the court shall affirmatively order service by mail without requiring additional motions to be filed by the petitioner.
- Service by publication is permitted only in those cases where all other means of service have been unsuccessful or are not possible due to lack of any known physical or electronic address of the respondent.
- Publication must be made in a newspaper of general circulation in the county where the petition was brought and in the county of the last known address of the respondent once a week for three consecutive weeks. The newspaper selected must be one of the three most widely circulated papers in the county.
- The publication of summons must not be made until the court orders service by publication under this section. Service of the summons is considered complete when the publication has been made for three consecutive weeks.

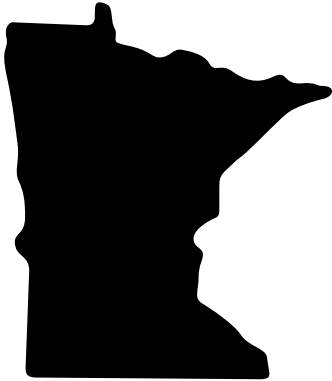
In addition, NCSC shared a relevant law review article that argued:

Given VAWA's mandate that law enforcement effectuate service for domestic violence cases, sheriffs and police should make diligent efforts at service, and failure to achieve personal service by the second hearing date should provide prima facie reason for permitting alternative service, including by electronic means to reflect modern life¹.

¹ Jane K. Stoeber, Access to Safety and Justice: Service of Process in Domestic Violence Cases, 94 Wash. L. Rev. 333 (2019) (Available at: <https://digitalcommons.law.uw.edu/wlr/vol194/iss1/8>)

CLARIFY RELATIONSHIP BETWEEN PROTECTION ORDER AND CRIMINAL PROCEEDINGS

Some Task Force members pointed to confusion and challenges related to the existence of parallel civil protection order and criminal domestic violence proceedings involving the same litigants. Specifically, they expressed concern about the impact on a pending criminal proceeding on the efficient processing of the protection order case (e.g., that the civil court judge would delay issuance of a final order until completion of the criminal case to avoid subjecting the respondent/defendant to 5th Amendment self-incrimination concerns), and vice versa. NCSC discussed strategies to address these concerns, which typically are found in case law and involve a balancing of the interests involved, and shared the following statutory approaches:



MINNESOTA STAT. 518B.01, SUBD. 15

Any testimony offered by a respondent in a hearing pursuant to this section is inadmissible in a criminal proceeding.



KENTUCKY REV. STAT. § 456.070

Testimony offered by an adverse party in a hearing ordered pursuant to KRS 456.040 shall not be admissible in any criminal proceeding involving the same parties except for purposes of impeachment.

ENHANCE ENFORCEMENT REQUIREMENTS FOR PROTECTION ORDERS

The Task Force explored including provisions in the FVPA to create more specific requirements regarding the enforcement of protection orders by law enforcement. Specifically, members expressed interest in further clarifying the role of officers in enforcement of orders, specifying the penalties for violations, and including provisions to prevent inappropriate dual arrest of both parties during a domestic violence incident. To assist with these issues, NCSC compiled and shared the following strategies and examples:

Specifying law enforcement role in enforcement and penalties

- Set forth standards for facial validity of orders; no requirement for certified copy
- Require service of order if not yet served; arrest if non-compliant after a reasonable period of time
- Full faith and credit implementing legislation (already in law (40-13A))
- Some enumerate the types of violations triggering mandatory arrest (typically stay-away, no-contact, no abuse/harassment, exclusion from residence; most do not specify the provisions of the order (currently the case in NM))
- Require that officers inquire whether a protection order is in effect at the scene and run a check
- Specify that signs of physical abuse are not necessary for a violation (IL)
- Specify that contact by or admittance to a residence by petitioner is not a violation (MN)
- Provide for criminal conviction and contempt as possible sanctions
- Require explanation in DV incident report when arrest is not made
- Specify that victim's signing of a criminal complaint is not necessary for an arrest
- Require that orders include notice regarding arrest for willful violations

Preventing Dual Arrests

- Louisiana Rev. Stat. 46:2140(C):
 - (1) When a law enforcement officer receives conflicting accounts of domestic abuse or dating violence, the officer shall evaluate each account separately to determine if one party was the predominant aggressor.
 - (2) In determining if one party is the predominant aggressor, the law enforcement officer may consider any other relevant factors, but shall consider the following factors based upon his or her observation:
 - (a) Evidence from complainants and other witnesses.
 - (b) The extent of personal injuries received by each person.
 - (c) Whether a person acted in self-defense.
 - (d) An imminent threat of future injury to any of the parties.
 - (e) Prior complaints of domestic abuse or dating violence, if that history can be reasonably ascertained by the officer.
 - (f) The future welfare of any minors who are present at the scene.
 - (3) (a) If the officer determines that one person was the predominant aggressor in a felony offense, the officer shall arrest that person. The arrest shall be subject to the laws governing arrest, including the need for probable cause as otherwise provided by law.

MANDATE TRAINING FOR KEY STAKEHOLDERS

To support the Task Force's interest in establishing mandatory training for key stakeholders, NCSC gathered and shared the following examples of statutory training requirements in the context of domestic abuse and protection orders:



IOWA CODE 236.17 Domestic Abuse Training Requirements

The [IA Dept. of Justice], in cooperation with victim service providers, shall work with various professional organizations to encourage organizations to establish training programs for professionals who work in the area of domestic abuse prevention and services. Domestic abuse training may include, but is not limited to, the following areas:

1. The enforcement of both civil and criminal remedies in domestic abuse matters.
2. The nature, extent, and causes of domestic abuse.
3. The legal rights and remedies available to domestic abuse victims, including crime victim compensation.
4. Services available to domestic abuse victims and their children, including the domestic abuse telephone hotline.
5. The mandatory arrest provisions of section 236.12, and other duties of peace officers pursuant to this chapter.
6. Techniques for intervention in domestic abuse cases.



**NORTH DAKOTA CENT. CODE § 14-07.1-14
Law Enforcement Guidelines and Training**

1. Every law enforcement agency shall develop and implement, with assistance from the criminal justice training and statistics division, specific operational guidelines for arrest policies and procedures in crimes involving domestic violence. The guidelines must include procedures for the conduct of criminal investigations, procedures for arrests and victim assistance by law enforcement officers, procedures concerning the provision of services to victims, and any additional procedures as may be necessary to carry out sections 14-07.1-02 through 14-07.1-14.
2. The peace officer standards and training board shall establish, in conjunction with the state's attorneys association, an education and training program for law enforcement officers and state's attorneys concerning the handling of crimes involving domestic violence. The training must stress the enforcement of criminal laws in domestic violence cases and the use of community resources.



**PENNSYLVANIA § 6105
Responsibilities of law enforcement agencies**

- (a) General rule.--The police department of each municipal corporation, the Pennsylvania State Police and the sheriff of each county shall insure that all their officers, deputies and employees are familiar with the provisions of this chapter. Instruction concerning protection from abuse shall be made a part of the training curriculum for all trainee officers and deputies. All law enforcement agencies within this Commonwealth shall adopt a written domestic violence policy.

CLARIFY DURATION OF FINAL ORDERS

The FVPA lacks statutory language setting for the duration of final protection orders, a gap identified as a priority for the Task Force. NCSC explained that most state protection order statutes include specific expiration dates/duration for final orders, in some instances setting forth different durations for orders under different circumstances. To provide more detailed examples, NCSC referred the Task Force to a matrix of protection order durations from across the country developed by the National Center on Protection Orders and Full Faith and Credit, Battered Women's Justice Project: <https://www.bwjp.org/ncpoffc-state-protection-order-duration-matrix.pdf>.

CODIFY COMPLIANCE REVIEW HEARINGS

Some Task Force members expressed an interest in codifying court-initiated compliance review hearings for respondents in protection order cases. To assist with the exploration of this topic, NCSC provided the one statutory example of which it is aware:



MISSOURI 455.524 **Order of protection, retention of jurisdiction--compliance review**

1. The court shall retain jurisdiction over the full order of protection issued under sections 455.500 to 455.538 for its entire duration. The court may schedule compliance review hearings to monitor the respondent's compliance with the order.
2. The terms of the child order of protection issued under this chapter are enforceable by all remedies available at law for the enforcement of a judgment, and the court may punish a respondent who willfully violates the child order of protection to the same extent as provided by law for contempt of the court in any suit or proceeding cognizable by the court.

In addition, NCSC referred the Task Force to the following resources:

- National Council of Juvenile and Family Court Judges, Spotlight on Promising Practices around Civil Protection Orders: DeKalb County Compliance Review Docket (2020): https://www.ncjfcj.org/wp-content/uploads/2020/08/NCJFCJ_CPO_Spotlight_Berryl_Anderson_Final.pdf
- Center for Court Innovation, Compliance Monitoring in Domestic Violence Cases: A Guide for Courts (2019): https://www.courtinnovation.org/sites/default/files/media/document/2021/Guide_Compliance_07082021.pdf

APPENDIX A: MATRIX OF STATES WITH CIVIL HARRASSMENT ORDERS OR EQUIVALENT

	Relationships eligible for DV Civil PO (thus, ineligible for civil harassment-type order)	Include stalking	Include SA	Definition of harassment (or equivalent)
Arizona (Injunction Against Harassment)	<ul style="list-style-type: none"> • Married or previously; • Related to the abuser or the abuser’s spouse by blood, marriage, or by court order in one of the following ways: <ul style="list-style-type: none"> ○ Parent, ○ Grandparent, ○ Child, ○ Grandchild, ○ Brother or sister ○ Parent-in-law, ○ Grandparent-in-law, ○ Step-parent, ○ Step-grandparent, ○ Step-child, ○ Step-grandchild, ○ Brother-in-law or sister-in-law; • Have or had a romantic or sexual relationship with the abuser; • Live, or used to live, in the same household as the abuser; • Have a child with the abuser, or petitioner is pregnant with the abuser’s child (or the abuser is pregnant with petitioner’s child) 	Yes	Yes	<p>Two or more acts over any period of time that:</p> <ul style="list-style-type: none"> • Is directed at a specific person; • Serves no legitimate purpose; and • Reasonably causes the victim to be seriously alarmed, annoyed or harassed; or <p>One or more acts of sexual violence, which the law defines as committing one of the following acts even if there was no arrest or criminal prosecution:</p> <ul style="list-style-type: none"> • Indecent exposure; • Public sexual indecency; • SA; • Sexual conduct with a minor; • Unlawful sexual conduct by: <ul style="list-style-type: none"> ○ Employee of the probation department, juvenile court, or state correctional institution; ○ Peace officer; ○ Behavioral health professional; • Molestation of a child; • Bestiality; • Continuous SA of a child; • Violent SA; • Voyeurism; • Unlawful disclosure of images depicting states of nudity or specific sexual activities; • Sexual extortion; • Kidnapping but only if there is the intention to inflict death, physical injury, or a sexual offense on the victim, or to otherwise aid in the commission of a felony; • Sex trafficking; • Surreptitious photographing, videotaping, filming or digitally recording or viewing; • Taking child for the purpose of prostitution;

	Relationships eligible for DV Civil PO (thus, ineligible for civil harassment-type order)	Include stalking	Include SA	Definition of harassment (or equivalent)
Arizona (cont'd) (Injunction Against Harassment)				<ul style="list-style-type: none"> • Commercial sexual exploitation of a minor, sexual exploitation of a minor, luring a minor for sexual exploitation, or aggravated luring a minor for sexual exploitation; <p>Any contact if the respondent committed any of the following crimes against petitioner:</p> <ul style="list-style-type: none"> • “Dangerous offense,” which the law defines as: <ul style="list-style-type: none"> • Offense involving the discharge, use, or threatening exhibition of a deadly weapon or dangerous instrument; or • Intentionally causing serious physical injury; • “Serious offense” or a “violent or aggravated felony,” which the law defines as: <ul style="list-style-type: none"> ○ Aggravated assault resulting in serious physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument; ○ SA; ○ Violent SA; ○ Sexual conduct with a minor that is a class 2 felony; ○ Molestation of a child; ○ Continuous SA of a child; ○ Sexual conduct with a minor under fifteen years of age; ○ Child sex trafficking; ○ Taking child for the purpose of prostitution; ○ Commercial sexual exploitation of a minor; ○ Sexual exploitation of a minor; ○ Any dangerous crime against children; ○ Arson of an occupied structure, jail, or prison facility; ○ Armed robbery; ○ Burglary in the first degree; ○ Burglary in the first degree committed in a residential structure if the structure is occupied; ○ Kidnapping; ○ Dangerous or deadly assault by prisoner; ○ Committing assault with intent to incite to riot or participate in riot; ○ Drive by shooting; ○ Discharging a firearm at an occupied residential structure; ○ Participating in or assisting a criminal syndicate or leading or participating in a criminal street gang;

	Relationships eligible for DV Civil PO (thus, ineligible for civil harassment-type order)	Include stalking	Include SA	Definition of harassment (or equivalent)
Arizona (cont'd) (Injunction Against Harassment)				<ul style="list-style-type: none"> ○ Terrorism; ○ Negligent homicide, manslaughter, and murder in the 1st degree or 2nd degree; ○ Unlawful introduction of disease or parasite; or ○ Any offense in Title 13, Chapter 14 or Chapter 35.1 of the Arizona Criminal Code. <p>Harassment may also include defamation against an employer, unlawful picketing, trespassory assembly, unlawful mass assembly, concerted interference with lawful business activity, and taking part in a secondary boycott.</p>
Colorado (PO for Stalking, SA, Physical Harm/Threats Abuse of the Elderly/At-Risk Adult)	<ul style="list-style-type: none"> ● Relative or former relative (either by blood or marriage); ● Spouse or ex-spouse; ● Father or mother of petitioner's child; ● Current or former intimate partner (not married); or ● Current or former housemate. 	Yes	Yes	A person commits physical assault if s/he causes bodily harm (injury) to another. The law also allows application for a PO if petitioner is not injured but the abuser threatens petitioner with physical harm/injury.
California (Civil Harassment Order)	<ul style="list-style-type: none"> ● Spouse or former spouse; ● Current or former dating partner, including a same-sex partner; ● Mother or father of petitioner's child; ● Person related to petitioner by blood, marriage, or adoption (such as a mother, father, child, brother, sister, grandparent, or in-law); ● "Cohabitant," who is someone who regularly lives/lived in petitioner's home. Generally, a cohabitant is someone closer to petitioner than just a "roommate." ● "Dating relationship" is a "frequent, intimate associations primarily characterized by the expectation of affection or sexual involvement." 	Yes	No	
Florida (Injunction Against Repeat Violence)	<ul style="list-style-type: none"> ● Current or former husband or wife; ● Any person related to petitioner by blood or marriage (such as aunt, cousin or brother-in-law); 	Yes	?	Anyone who has committed at least two acts of violence or stalking against petitioner or a member of petitioner's immediate family (child, parents, or a sister or brother) and one of those two acts of violence has occurred within the last six months.

	Relationships eligible for DV Civil PO (thus, ineligible for civil harassment-type order)	Include stalking	Include SA	Definition of harassment (or equivalent)
Florida (cont'd) (Injunction Against Repeat Violence)	<ul style="list-style-type: none"> Any person who lives or has lived with petitioner, as if they were part of the family. The law protects petitioner against these people even if they are no longer living with petitioner; or Someone with whom petitioner has a child in common, even if never lived together or married 			
Hawaii (Injunction Against Harassment)	<p>A family or household member includes:</p> <ul style="list-style-type: none"> Current or former spouse; Current or former reciprocal beneficiary (someone with whom petitioner has significant personal, emotional, and economic relationships with, but are prohibited from legally marrying; Someone with whom petitioner has a child in common; Parent; Child; Someone related to petitioner by blood or marriage; Someone with whom petitioner lives/lived (Note: This does not include adults who lived together as roommates or who were cohabitants only for economic reasons or due to a contract (e.g., a lease)); and/or Current or former dating partner 	Yes	Yes	“Harassment” is defined as: physical harm, bodily injury, assault, or the threat of immediate/likely physical harm, bodily injury, or assault; or a pattern of behavior that seriously and continuously alarms you, serves no legitimate purpose, and causes you to reasonably suffer emotional distress.
Idaho (PO Against Malicious Harassment, Stalking, and Telephone Harassment)	<p>Family or household member or a dating partner, which includes:</p> <ul style="list-style-type: none"> Spouse or former spouse; Parent; Brother or sister; Grandparent; Family members related to petitioner by blood, adoption, or marriage; Anyone with whom petitioner lived, currently or in the past; Anyone with whom petitioner has had a child (even if not married); and Anyone with whom petitioner is or was in a dating relationship. 	Yes	?	<p>Telephone Harassment: Using the telephone to communicate a threat to inflict injury or physical harm to petitioner or any member of petitioner’s family with the intent to terrify, threaten, or intimidate petitioner.</p> <p>Malicious Harassment: With intent to intimidate or harass petitioner because of race, color, religion, ancestry, or national origin, an abuser:</p> <ul style="list-style-type: none"> Causes or threatens to cause you physical injury; or Causes or threatens to cause damage to your property, home, or land

	Relationships eligible for DV Civil PO (thus, ineligible for civil harassment-type order)	Include stalking	Include SA	Definition of harassment (or equivalent)
Maine (Protection from Harassment Order)	<p>Family or household member or dating partner, defined as:</p> <ul style="list-style-type: none"> • Current or former spouse; • Someone with whom petitioner has a child in common; • Someone with whom who petitioner live/d; • Petitioner’s current or former sexual partner; • Someone petitioner is related to by blood or marriage; • Someone petitioner is currently dating or formerly dated (regardless of whether or not a sexual relationship). <p>Petitioner can also file for a protection from abuse order against anyone who has committed any of the following against petitioner or petitioner’s minor child:</p> <ul style="list-style-type: none"> • Attempting to cause or causing SA; • Stalking as defined by law; • Engaging in the unauthorized dissemination of certain private images; • Engaging in aggravated sex trafficking or sex trafficking 	Yes	Yes	<p>Three or more acts of intimidation, confrontation, physical force, or threat of physical force that are:</p> <ul style="list-style-type: none"> • Directed against any person, family, or business; • Made with the intention of causing fear, intimidation, or damage to property; and • Actually causes fear, intimidation, or damage to property; or • When the harasser commits a single act or a course of conduct that violates laws related to harassment, SA, and stalking.
Maryland (Peace Order)	<ul style="list-style-type: none"> • Current or former spouse; • Someone with whom petitioner had a sexual relationship and with whom petitioner lived for at least 90 days during the one-year period before petitioner filed for the PO (known as a “cohabitant”); • Someone with whom petitioner had a sexual relationship at some point in the one-year period before the filing of the petition (even if never lived together); • Someone related to petitioner by blood, marriage, or adoption; • Someone with whom petitioner has child in common; or • Someone who petitioner alleges committed rape or a sexual offense against petitioner within six months prior to filing the petition 	Yes	No	<p>Within 30 days before petitioner files for the order:</p> <ul style="list-style-type: none"> • Act that causes serious bodily harm; • Act that places petitioner in fear of immediate serious bodily harm; • Assault in any degree; • False imprisonment; • Harassment; • Stalking; • Trespass; • Malicious destruction of property • Misuse of telephone facilities and equipment; • Misuse of electronic communication or interactive computer service; • Revenge porn; • Visual surveillance; • Visual surveillance with prurient intent; or • Camera surveillance.

	Relationships eligible for DV Civil PO (thus, ineligible for civil harassment-type order)	Include stalking	Include SA	Definition of harassment (or equivalent)
Massachusetts (Harassment Prevention Order)	<p>Family or household members:</p> <ul style="list-style-type: none"> • Spouse or former spouse; • Someone with whom petitioner lives, currently or in the past; • Someone related to petitioner by blood or marriage; • Someone with whom petitioner has child in common; or • Someone with whom petitioner has or had a "substantial dating relationship." <p>To determine whether or not petitioner's dating relationship was "substantial," the judge will look at the following factors:</p> <ul style="list-style-type: none"> • Length of the relationship; • Nature of the relationship; • How often petitioner interacted with respondent; and • How long ago petitioner and respondent broke up (if they are no longer dating) 	Yes	Yes	<p>Three or more acts of cruel behavior when the harasser has the intent to cause, and actually causes, any of the following:</p> <ul style="list-style-type: none"> • Fear; • Intimidation; • Abuse; or • Damage to property; • Causing another person to have sexual relations against his/her will by force, threat, or coercion; or • Committing one of the following crimes against another person, even if the crime is never reported to the police or the harasser is never arrested for it: <ul style="list-style-type: none"> ○ Indecent assault and battery on child under age of 14; ○ Indecent assault and battery on mentally retarded person; ○ Indecent assault and battery on person fourteen or older; ○ Rape; ○ Rape of child; ○ Rape and abuse of child; ○ Assault with intent to commit rape; ○ Assault of child; intent to commit rape; ○ Kidnapping; ○ Stalking; ○ Criminal harassment; or ○ Drugging persons for sexual intercourse
Minnesota (Civil Harassment Restraining Order)	<ul style="list-style-type: none"> • Spouse or former spouse • Petitioner's parent • Petitioner's child • Someone related to petitioner by blood • Someone with whom petitioner lives/lived • Someone with whom petitioner has a child in common • Someone with whom petitioner is expecting a child (if the female in the couple is currently pregnant) • Someone with whom petitioner has/had a significant romantic or sexual relationship 	Yes	Yes	<p>A single incident of:</p> <ul style="list-style-type: none"> • Physical assault; • SA; • Using another person's personal information, without consent, to invite, encourage, or solicit a third party to engage in a sexual act with the person (part of the crime of stalking); or • Nonconsensual dissemination of private sexual images; • Repeated incidents of intrusive or unwanted acts, words, or gestures that have a significant negative effect or are intended to have a significant negative effect on petitioner's safety, security, or privacy; • Targeted residential picketing; or • Pattern of attending public events after being notified that the person's presence at the event is harassing to another.

	Relationships eligible for DV Civil PO (thus, ineligible for civil harassment-type order)	Include stalking	Include SA	Definition of harassment (or equivalent)
Nebraska (SA PO; Harassment PO)	Family or household member: <ul style="list-style-type: none"> • Spouse or former spouse; • Person with whom petitioner currently lives or used to live; • Person with whom petitioner has had a child, even if never married; • Person petitioner is dating or has dated in the past; • Relative by blood or marriage; or • Petitioner's child. 	Yes	Yes	Intentionally does multiple things to seriously terrify, threaten, or intimidate petitioner for no reason
South Carolina (Restraining Order Against Stalking and Harassment)	<ul style="list-style-type: none"> • Current or former spouse, including same-sex spouses; • Someone with whom petitioner has child in common; or • Someone with whom petitioner lives or with whom petitioner used to live ("cohabitated"), including same-sex couples 	Yes	No	Harassment is a pattern of intentional, substantial, and unreasonable intrusions into petitioner's private life that serve no legitimate purpose and would cause a "reasonable person" to suffer mental or emotional distress. Harassment may include, but is not limited to: <ol style="list-style-type: none"> 1. Following petitioner; 2. Verbal, written, or electronic contact that is initiated, maintained, or repeated and causes petitioner mental distress; 3. Visual or physical contact that takes place after petitioner has told the person not to contact petitioner or after petitioner filed an incident report with the police; 4. Staying around or doing surveillance of petitioner's home, workplace, school, or other place petitioner regularly goes; or 5. Vandalism and property damage.
Virginia (PO for Act of Violence, Force or Threats)	Family or household member, which is defined as: <ul style="list-style-type: none"> • Current or former spouse; • Parent, child, stepparent, stepchild, brother, sister, half-brother, half-sister, grandchild, or grandparent, regardless of whether or not petitioner and the person live together; • Petitioner's mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law, but only if petitioner lives with that person; • Anyone petitioner has had a child with, whether or not the petitioner and respondent have been married or have ever lived together; or • Any individual who lives with petitioner ("cohabits") or has lived with petitioner within the past 12 months (or his/her child who also lives in the home) 	Yes	Yes	<ul style="list-style-type: none"> • Act of violence, force or threat means any act that involves violence, force, or threat; and • Results in physical injury; or • Reasonably makes petitioner fear death, SA, or physical injury.

	Relationships eligible for DV Civil PO (thus, ineligible for civil harassment-type order)	Include stalking	Include SA	Definition of harassment (or equivalent)
Washington (Civil Anti-Harassment Order)	<ul style="list-style-type: none"> • Petitioner’s spouse or former spouse; • Petitioner’s domestic partner or former domestic partner; • Someone petitioner has a child in common with; • Adult persons related to petitioner by blood/marriage; • Adult persons living with petitioner now or who have lived with petitioner in the past; • Someone petitioner dated or are dating as long as the abuser is 16 or older; or • Someone who has a biological or legal parent-child relationship with petitioner, including step-parents and step-children, and grandparents and grandchildren 	No	No	<p>“Harassment” is a series of willful acts over a period of time that:</p> <ul style="list-style-type: none"> • Seriously alarms, annoys, harasses, or harms petitioner without “serving a legitimate purpose”; and • Reasonably causes petitioner to suffer substantial emotional distress (harm); or • Reasonably causes petitioner to fear for the well-being of petitioner’s child. <p>Note: This “course of conduct” does not include constitutionally protected activity or constitutionally protected speech.</p> <p>As explained above, for the acts to be harassment, they cannot be considered to “serve a legitimate purpose.” To decide if the actions are for a legitimate (valid) purpose, the court will consider whether:</p> <ul style="list-style-type: none"> • Abuser started the current contact between petitioner two or whether petitioner both contacted each other; • Abuser has been given clear notice that all future contact with petitioner is unwanted; • Acts appear designed to alarm, annoy, or harass petitioner; • Abuser is acting to try to protect a legal interest in his/her property, to enforce a law, or to meet a legal obligation; • Abuser’s acts unreasonably interfere with the petitioner’s privacy or create an intimidating, hostile (unfriendly), or offensive living environment for petitioner; • There was a court order in the past that limited the abuser’s contact with petitioner or petitioner’s family
Wisconsin (Harassment Restraining Order)	<ul style="list-style-type: none"> • Current or former spouse; • Parent; • Adult child; • Person related to petitioner by blood or adoption; • Person with whom petitioner currently/formerly lived; • Anyone with whom petitioner has had a child, even if never married to him/her; • Someone petitioner is dating or have dated; or • Caregiver 	Yes	Yes	<p>“Harassment” includes:</p> <ul style="list-style-type: none"> • Striking, shoving, kicking or otherwise subjecting another person to physical contact; • Child abuse (as defined by law); • SA; • Stalking; • Attempting or threatening to commit any of the above acts; and • Repeated acts that harass or intimidate another person and which serve no legitimate (valid) purpose.

APPENDIX B: MATRIX OF STATES WITH STALKING AND/OR SEXUAL ASSAULT PROTECTION ORDERS FOR NON-DOMESTIC/HOUSEHOLD RELATIONSHIPS

	Relationships eligible for DV CPO (thus ineligible for stalking or SA order)	Include stalking	Include SA
Alaska (Stalking PO; SA PO)	<ul style="list-style-type: none"> • Current or former spouses; • Live together or who have lived together; • Dating or who have dated; • Have or once had a sexual relationship; • Related to each other by blood (including half-blood) or adoption, such as child, parent, grandchild, brother, sister, grandparent, uncle, first cousin, or other relative; • Related by a current or former marriage (including step-parents and step-children); • Have a child in common from a relationship whether or not they have been married or have lived together; or • Are the minor child of a person in a relationship described above 	Yes	Yes
District of Columbia (Anti-Stalking Order)	<p>“Family member” is someone petitioner is related to by blood, adoption, legal custody, marriage, or domestic partnership, or who is the child of petitioner’s intimate partner.</p> <p>“Household member” is someone petitioner lives/lived with at some point in the last year. It also could include someone with whom petitioner has a close relationship that would make it appropriate for a judge to grant get a civil PO against that person.</p> <p>“Intimate partner” is:</p> <ul style="list-style-type: none"> • Current or former spouse or domestic partner; • Someone with whom petitioner has a child in common; • Someone with whom petitioner is or was in a romantic, dating, or sexual relationship; or • Someone who was seeking to be in a romantic, dating, or sexual relationship with petitioner. 	Yes	No *D.C. CPOs available in SA and trafficking cases where no relationship exists
Georgia (Stalking PO)	<ul style="list-style-type: none"> • Petitioner’s spouse or ex-spouse; • Petitioner’s parent, step-parent, or foster parent; • Petitioner’s child, step-child, or foster child; • Any person who lives or has lived in the same household with petitioner; or • Someone with whom petitioner has a child in common 	Yes	No
Illinois (Civil No-Contact SA Order; Stalking Non-Contact)	<ul style="list-style-type: none"> • Person abused by a family or household member; • High-risk adult with disabilities who is abused, neglected, or exploited by a family or household member; • Minor child or dependent adult in the care of the abused person or high-risk adult mentioned above; • Person living or employed at a private home or public shelter that houses an abused family or household member; and • Any of the following people if they are abused by the family or household member of a child: <ul style="list-style-type: none"> ○ Foster parent of that child; ○ Legally-appointed guardian or legally-appointed custodian of that child; ○ Adoptive parent of that child; or ○ Prospective adoptive parent of that child. 	Yes	Yes

	Relationships eligible for DV CPO (thus ineligible for stalking or SA order)	Include stalking	Include SA
Kansas (Protection from Stalking, SA, or Human Trafficking Order)	<p>"Intimate partner or household member," which includes:</p> <ul style="list-style-type: none"> • Petitioner's spouse or ex-spouse; • Someone who lives with petitioner, currently or in the past; • Someone whom petitioner is dating or has dated; or • Someone with whom petitioner has a child in common 	Yes	Yes
Michigan (Non-Domestic Stalking Personal PO; Non-Domestic SA Personal PO)	<ul style="list-style-type: none"> • Current or former spouse; • Someone with whom petitioner has a child in common; • Someone petitioner is dating or used to date; or • Anyone who lives in petitioner's home or has lived in petitioner's home 	Yes	Yes
New Hampshire (Stalking PO)	<p>Family or household member, which is defined as:</p> <ul style="list-style-type: none"> • Spouse, ex-spouse, someone petitioner lives with or used to live with, petitioner's parent, or any other person petitioner is related to by blood or marriage (except for any minor children who live with the defendant/abuser; or • Current or former sexual partner; or • Current or former intimate partner: Someone with whom petitioner currently or formerly had a romantic relationship (it doesn't matter if petitioner never had sexual relations with this person) 	Yes	No
Ohio (Stalking or Sexually Oriented Offense PO)	<p>"Family or household member" is defined as:</p> <ul style="list-style-type: none"> • Someone with whom petitioner has a child in common, even if they never lived together; or • Any of the following people but only if petitioner live with them currently or in the past: • Petitioner's spouse or ex-spouse; • Person "living as a spouse" (common law spouse) but only if they lived together at some point in the five years prior to the DV incident described in petition; • Petitioner's parent, foster parent, or step-parent; • Petitioner's child or step-child; • Anyone else related to petitioner by blood or marriage; or • Parent, child, or anyone related by blood or marriage to the "person living as a spouse" of the abuser (for example, the mother of the abuser's common-law wife may be able to file against the abuser). 	Yes	Yes

	Relationships eligible for DV CPO (thus ineligible for stalking or SA order)	Include stalking	Include SA
Ohio (cont'd) (Stalking or Sexually Oriented Offense PO)	A "dating relationship" is defined as a romantic or intimate relationship: <ul style="list-style-type: none"> • Between adults; • Beyond a typical social relationship or casual acquaintance; and • Took place within twelve months of the DV incident 		
Oregon (Stalking PO; SA PO)	Family or household member is defined as: <ul style="list-style-type: none"> • Current or former spouse; • Adult related by blood, marriage or adoption; • Someone petitioner is living with or has lived with in the past and had a sexual relationship with ("cohabited with"); • Someone petitioner has been in a sexually intimate relationship with, within two years immediately preceding the filing of a restraining order petition under; or • Someone with whom petitioner has a child in common 	Yes	Yes
South Dakota (PO for Stalking – Non-Family Member)	<ul style="list-style-type: none"> • Petitioner's spouse or ex-spouse • Anyone with whom petitioner is/was in a "significant romantic relationship" (if the relationship has ended, it must have ended within the last 12 months); • Anyone with whom petitioner has had a child or with whom petitioner is expecting a child (even if they were never married); • Petitioner's parent or child (through blood, adoption, guardianship, or marriage); or • Petitioner's sibling or half-sibling (through blood, adoption, or marriage) <p>To decide if petitioner's relationship is a "significant romantic relationship," the judge will consider:</p> <ul style="list-style-type: none"> • Length of the relationship; • How often petitioner and the other party interact; and • Characteristics and type of relationship 	Yes	No
Texas (PO for Sexual Assault, Sexual Abuse, Indecent Assault, Stalking, or Trafficking)	"Family or household member," which is defined as a: <ul style="list-style-type: none"> • Current or former spouse; • Blood relative such as a parent, sibling, child; • Relative by marriage (an in-law); • Person with whom petitioner has a child in common; • Household member; • Foster parent; • Foster child; or • Abuser is someone with whom petitioner has/had a "dating relationship;" 	Yes	Yes

	Relationships eligible for DV CPO (thus ineligible for stalking or SA order)	Include stalking	Include SA
Texas (cont'd) (PO for SA, Indecent Assault, Stalking, or Trafficking)	<ul style="list-style-type: none"> Abuser is the current spouse or current boyfriend/girlfriend of petitioner's ex-spouse or petitioner's ex-significant other Abuser is the ex-spouse or ex-boyfriend/girlfriend of petitioner's current spouse or current significant other 		
Utah (Dating Violence PO; Sexual Violence PO; Civil Stalking Injunction)	<p>"Cohabitant" is defined as someone who is at least 16 years old and is:</p> <ul style="list-style-type: none"> Petitioner's current or former spouse; Someone who is or was living as if s/he were a spouse; Person related to petitioner by blood or marriage - including a parent, grandparent, sibling, or any other person related by blood or marriage to the second degree; Someone with whom petitioner is or was in a consensual sexual relationship; Person with whom petitioner has a child in common; Someone with whom petitioner is expecting a child, if one of the parties is pregnant; or Person with whom petitioner lives/lived in the same home. <p>"Cohabitant" does <u>not</u> include:</p> <ul style="list-style-type: none"> Relationship of natural parent, adoptive parent, or step-parent to a minor; or Relationship between natural, adoptive, step, or foster siblings who are under 18 years of age. <p>For dating violence PO: A dating partner is someone who is either emancipated from his/her parents, which means that person is a legal adult, or is 18 years old or older and is or has been in a dating relationship with petitioner. Petitioner does not have to have taken any steps to end the relationship before filing for a dating violence PO</p>	Yes	Yes
Vermont (Order Against Stalking and SA)	<p>Family or household member, which includes any of the following:</p> <ul style="list-style-type: none"> Someone with whom petitioner is living or has lived; Someone with whom petitioner shares or has shared a home; Someone with whom petitioner is having or used to have a sexual relationship; Someone petitioner is dating or has dated (Note: "Dating" is defined as a social relationship of a romantic nature); Spouse or former spouse; or Family member, related by blood or marriage 	Yes	Yes

	Relationships eligible for DV CPO (thus ineligible for stalking or SA order)	Include stalking	Include SA
Washington (Stalking PO; SA PO)	<ul style="list-style-type: none"> • Spouse or former spouse; • Petitioner’s domestic partner or former domestic partner; • Someone petitioner has a child in common with; • Adult persons related to petitioner by blood or marriage; • Adult persons living with petitioner now or who have lived with petitioner in the past; • Someone petitioner dated or is dating as long as the abuser is 16 or older; or • Someone who has a biological or legal parent-child relationship with petitioner, including step-parents and step-children, and grandparents and grandchildren 	Yes	Yes
Wyoming (Order of Protection Against Stalking or SA)	<p>Household member is defined as:</p> <ul style="list-style-type: none"> • Petitioner’s husband or wife; • Petitioner’s ex-husband or ex-wife; • Someone petitioner lives or has lived with (as if petitioner and respondent were married); • Petitioner’s parent; • Petitioner’s “adult child” (which means the child is age 16 or over or legally married); • Other adults that petitioner lives with (“adult” means age 16 or over or legally married); • Someone with whom petitioner has a child in common; or • Someone petitioner is dating or dated in the past. 	Yes	Yes

APPENDIX C: MATRIX OF STATES WITH NO SEPARATE CIVIL HARASSMENT, STALKING, OR SEXUAL ASSAULT ORDER

	Relationships covered in DV CPO
Alabama	<ul style="list-style-type: none"> • Petitioner is related by marriage to the defendant, including a common law marriage; • Petitioner had a former marriage or common law marriage with the defendant; • Petitioner has a child in common; • Petitioner is currently in a dating relationship with the abuser or petitioner's dating relationship ended within the last 12 months; • Petitioner is a current or former household member of the abuser, which means petitioner lived together while having a romantic or sexual relationship - or petitioner can file against the relative of a current or former household member as long as that person also lived with petitioner; or • Petitioner is the parent, step-parent, child, or step-child of the abuser and petitioner live or have lived together
Arkansas	<p>Family or household members if s/he is:</p> <ul style="list-style-type: none"> • Spouse or former spouse; • Parent or child; • Any person related to petitioner by blood within the 4th degree of consanguinity (this includes family relationships up to first cousins); • In-law (related by marriage within the 2nd degree of consanguinity); • Any child residing in the household; • Person with whom petitioner has (or had) a child in common; • Person with whom petitioner currently live or have lived in the past; • Person with whom petitioner has or have had a dating relationship (romantic or intimate).
Connecticut	<p>Family or household members regardless of the age of petitioner and the abuser:</p> <ul style="list-style-type: none"> • Petitioner's spouse or former spouse (including a civil-union spouse); • Someone petitioner has a child in common with; • Petitioner's parent; • Petitioner's child; • Someone petitioner is dating or have recently dated; • Someone petitioner is related to petitioner by blood or marriage; • Someone who petitioner currently live with or used to live with; and • Live-in caretaker, if petitioner is age 60 years or older.
Delaware	<ul style="list-style-type: none"> • Current or former spouse; • Someone with whom petitioner were "cohabitating" (living together as a couple, with/without a child in common); • Petitioner's custodian; • Petitioner's child; • Someone with whom petitioner has or had a "substantive" dating relationship; • Someone with whom petitioner has a child in common, even if petitioner don't live together; • Someone petitioner is related to by blood or marriage with whom petitioner live (together in one household); or • Someone petitioner is related to in any of the following ways: <ul style="list-style-type: none"> ○ Mother, father ○ Mother-in-law, father-in-law

	Relationships covered in DV CPO
Delaware (cont'd)	<ul style="list-style-type: none">○ Brother, sister○ Brother-in-law, sister-in-law○ Grandparent, grandchild○ Stepmother, stepfather○ Child, stepchild, daughter-in-law, son-in-law.● This includes both blood relationships and relationships by adoption. Also, it does not matter if a parent's parental rights were legally terminated.



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