



Domestic Violence Presentation
September 10, 2020
US District Court - Trenton

Legislative History and Policy Considerations of the
Prevention of Domestic Violence Act
&
The Impact of Pro Bono Work During the COVID-19
Pandemic

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Our Mission

- **Partners for Women and Justice empowers low-income survivors of domestic violence to build safe and secure futures for themselves and their children by providing equal access to justice. We offer quality legal assistance in domestic violence and family law matters.**

Domestic Violence Statistics

- On average, nearly **20 people per minute** are physically abused by an intimate partner in the United States. During one year, this equates to more than **10 million** women and men.
- **1 in 4 women and 1 in 7 men** have been victims of **severe physical violence** (e.g. beating, burning, strangling) by an intimate partner in their lifetime.

The Impact of Domestic Violence on Children

- **1 in 3 children** who **witnessed** domestic violence were also **child abuse victims**.
- **1 in 15 children** are exposed to intimate partner violence each year, and **90%** of these children are **eyewitnesses** to this violence.
- In **43%** of domestic violence incidents with female victims, **children** are residents of the household where the incident occurred.



The Prevention of Domestic Violence Act- Enacted to End Abuse

- The New Jersey Prevention of Domestic Violence Act (PDVA) was first enacted in 1981 and then revised in 1991.
- The intent of the Legislature is:
 - **To assure that victims of domestic violence receive the maximum protection from abuse the law can provide.**
 - To affirm that the primary duty of a law enforcement is to enforce the laws and to protect the victim.
 - To invest courts with the responsibility to protect victims by ordering remedies and sanctions that assures the safety of victims. (1991)
 - To assure the official response to domestic violence shall make clear that existing criminal laws will be enforced without regard to the fact that the violence grows out of a domestic situation.

Legislative Findings

- Findings of the Legislature in 1981 and again in 1991:
 - **Domestic violence is a serious crime against society.**
 - Thousands regularly beaten, tortured and in some cases killed.
 - **Victims come from all social and economic backgrounds and ethnic groups.**
 - There is a positive correlation between spousal abuse and child abuse.
 - **Children exposed to domestic violence suffer deep and lasting emotional effects.**
 - The elderly and disabled are at risk of being victimized because they must rely on the aid and support of others, including family members. (1991)
 - Societal attitudes concerning domestic violence negatively affected the response of the law enforcement and judicial systems with the result that criminal acts committed by intimate partners were treated differently – less seriously – than the same acts committed by strangers or neighbors.
 - Battered adults experience substantial difficulty in gaining access to protection from the judicial system, particularly due to that system's inability to generate a prompt response in an emergency situation.

The Broad Reach of the PDVA

- PDVA is included in New Jersey's criminal code at 2C:25-17 et seq., With the Act's underlying policy to assure victims the maximum protection from abuse that the law can provide, the Act has a very broad reach. **It is one of the strongest in the nation.**
- **The Breadth of the PDVA's Reach Includes:**
 - Criminal and civil proceedings
 - Extensive procedural requirements
 - Family Court, Criminal Court, Municipal Court
 - Law enforcement, including police responding to domestic violence incidents and prosecutors handling of criminal cases
 - Firearms – permits and possession
 - Children, in addition to victims
 - County and State working groups that bring together advocates for victims, the judiciary, and law enforcement to continually work to improve the system
 - Domestic violence response teams in each municipality in the State
 - Mandatory training for judiciary and law enforcement
 - Required annual statistical reports

Policy & Relief

- Policy is also reflected in the broad range of reliefs that can be secured through a restraining order proceeding:
 - Emergency relief on an ex parte basis (Temporary Restraining Order (TRO))
 - Final trial within 10 days (Final Restraining Order, (FRO))
 - **Prohibition on defendant's contact/proximity to home, work, school, relatives**
 - **Exclusive possession of home**
 - **Financial support of victims and their children**
 - **Orders for safe visitation and custody arrangements**
 - Assessment of risk to the children of having unsupervised visitation with the abuser
 - Weapons forfeiture
 - Payment of support for victim (mortgage, rent, etc.)
 - Payment of child support
 - Payment of compensatory damages
 - Payment of punitive damages
 - Required counseling and treatment: abuse, drugs, alcohol
 - Violation of an FRO itself is considered an act of domestic violence
 - **FROs are permanent**

Policy Advocacy at Partners

- **State v. McCray:**
 - Partners acted as Amicus Curiae, with attorneys Lawrence Lustberg and Michael Noveck of Gibbons, P.C. preparing the brief and appearing, *pro bono*.
 - On July 20, 2020, the New Jersey Supreme Court held that defendants who violate pretrial release conditions cannot be charged with criminal contempt. *State v. Antoine McCray*; *State v. Sahaile Gabourel* (2020). **However, the Court accepted the argument advanced by Partners, as amici, that no-contact orders must be fully enforceable in order to protect victims of domestic violence.** This means that the Court carved out an exception to the holding allowing prosecutors to charge defendants with contempt if they violate no-contact orders. This decision will help deter violations of no-contact orders and protect victims of domestic violence.

Policy Advocacy at Partners

- **C.R. v. M.T.**
 - This case is currently pending before the Supreme Court of New Jersey. See Docket: A-0139-18T4 (2020); C.R. v. M.T., 461 N.J. Super. 341 (App. Div. 2019).
 - Partners joined the New Jersey Coalition Against Sexual Assault (NJCASA) as Amicus Curiae. C.J. Griffin, Esq. of Pashman, Stein, Walder, Hayden, P.C., prepared the brief, *pro bono*.
 - As amici, Partners and NJCASA asserted that **a victim who is impaired by intoxication cannot freely and affirmatively consent to a sexual act, even if her intoxication is voluntary**, and argued that the New Jersey Appellate Division erred by requiring a victim who wants to obtain a protection order prove by a preponderance of the evidence that her faculties were prostrated. It is our position that this standard is highly inappropriate for a proceeding brought pursuant to the Sexual Assault Survivor Protection Act or the Prevention of Domestic Violence Act.

The Impact of Pro Bono Work During COVID-19

- The pandemic brought the closure of court buildings, domestic violence agencies, and limitations on police response to victims of domestic violence.
- Partners, in collaboration with contemporary agencies statewide, took action to bring victims to safety.
- **Pro bono volunteers continue to play a key role in obtaining justice for victims.**

Obstacles for Victims During the Pandemic

- Many victims are concerned about reporting abuse out of fear of homelessness during the health crisis.
- Victims are quarantined at home with their abuser.
- Victims often lack access to the requisite technology to appear in virtual proceedings.

Our Work Continues...

- Partners **engaged in advocacy work** to streamline victim's access to the police and courts during the pandemic.
- Volunteers **quickly mastered** virtual hearing formats to provide comprehensive representation to victims.
- Volunteers assisted survivors in restructuring custody and parenting time **to keep children safe** during the health crisis.

Pro Bono Opportunities with Partners for Women and Justice

- **Domestic Violence Representation Program**
 - Volunteer attorneys provide direct representation to victims of domestic violence in Final Restraining Order (FRO) trials.
 - Volunteers typically donate 15-20 hours per case.
- **Domestic Violence Advice and Counsel Program**
 - Volunteers provide telephonic advice consults to domestic violence.
 - Volunteers will typically donate 3-5 hours per case, including the in-person consult.
 - This program offers volunteers a way to meaningfully volunteer with a low time commitment.
- **Children of Domestic Violence Program**
 - Volunteer attorneys provide direct representation in hearings for child support, child custody, visitation, and other forms of post judgment relief related to the welfare and maintenance of children.
 - Volunteers typically donate 8-20 hours per case.

Benefits to Volunteers

- Volunteers have an opportunity to assist victims of domestic violence at the convenience of their schedule and availability.
- Expert support from Partners' attorneys is always available to volunteers.
- Volunteers receive complimentary trainings approved for CLE credit hours through their participation in the program.
- Volunteers who donate 25 or more hours are eligible for an exemption for court mandated *Madden* assignments in New Jersey.
- **Volunteers positively change legal outcomes and save lives by bringing justice to victims.**



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- Please do not hesitate to contact me if you have questions about how to get involved or if you have an interest in volunteering!