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IN THE SUPREME COURT OF FLORIDA

IN RE REPORT OF THE FAMILY  
COURT STEERING COMMITTEE.

CASE NO. scoo-1410

COMMENTS OPPOSING RECOMMENDATIONS THAT JUDGES AND  
"QUASI-JUDICIAL OFFICERS" RECEIVE MANDATORY  
TRAINING IN THE FUNDAMENTALS OF DOMESTIC VIOLENCE  
AND RECEIVE CONTINUING EDUCATION IN BEHAVIORAL  
SCIENCES, "FAMILY SYSTEMS", AND ATTACHMENT THEORY

I.

Recommendation #6(c) provides, in part, that judges should receive mandatory training in the fundamentals of domestic violence before serving in the family division or within 60 days after assuming the assignment. The same provision is found in recommendation #7(b) where "quasi-judicial officers" would receive this mandatory training within the same time frames. These recommendations should be excluded from a model family court plan because the recommendations assume that there is no disagreement about either the origins of domestic violence or about the most effective way to address domestic violence. In fact there are different theories that attempt to explain the origins of domestic violence and there are different counseling and intervention theories that approach domestic violence in different ways. Each approach or theory has its attributes and its criticisms. Each theory has its proponents and its detractors. The problem with the recommendations, as they are written, is that they do not acknowledge the different approaches or theories. To make matters worse, the commentary to recommendation #6(d) leads to the inference that the Florida Courts Educational Council should develop courses that provide education on only one domestic violence theory - that being the feminist theory.

The commentary to recommendation #6(d) states that judges need comprehensive education in "power and control theory" before judges can make the best decision in a domestic violence case. The power and control theory is synonymous with the feminist theory on domestic violence. (see the "Duluth Model" power and control wheel, pg. 19 of Batterer Intervention: Program Approaches and Criminal

Justice Strategies; Chapter 2, "The Causes of Domestic Violence: From Theory to Intervention," U.S. Dept. of Justice National Institute of Justice, attached as appendice 1).

The National Institute of Justice (NIJ) report provides an overview of the different theories relating to the origins and treatment of domestic violence along with an analysis of the attributes and criticisms of each theory and intervention model. The NIJ report explains that there are three theories of domestic violence which offer divergent explanations of the root causes of domestic violence and each theory leads to distinctive intervention models. The three theories are: 1) the feminist theory; 2) the family systems theory; 3) the psychotherapeutic theory.

Central to the feminist perspective on domestic violence is a gender analysis of power. According to the feminist theory domestic violence in intimate relationships mirrors the patriarchal organization of society. The feminist theory attributes domestic violence to social structures and cultural norms and values that endorse or tolerate the use of violence by men against women partners. The feminist theory supports an "intervention" approach that confronts men about their alleged power and control tactics in all areas of their relationships with women. The feminist theory is a psychoeducational approach which attempts to "resocialize" men to think about equality in relationships with women.

There are many criticisms of the feminist power and control theory. The NIJ report explains some of the criticisms:

Critics have claimed that the feminist perspective overemphasizes sociocultural factors, such as patriarchal values, to the exclusion of individual factors like growing up abused. Men's behavior in intimate relationships varies across individuals, and broad cultural factors cannot explain this variability. Feminist theory predicts that all men in our society will be abusive, claim its critics, adding that besides being untrue, this theory makes it impossible to predict *which* men will be violent. To make individual predictions, a model

must assign a role to other factors including, but not limited to, psychological deviance.

Other criticisms center not on the validity of feminist explanations of battering but on the translation of that theory into programming. For example, some observers argue that feminist educational interventions are too confrontational in tone and, as a result, are ultimately self-defeating, alienating batterers, increasing their hostility, and making them less likely to become engaged in treatment. It is possible that the goal of the feminist model - to rebuild the batterer's belief system in order to achieve nonviolence - may be unnecessarily ambitious and adversarial. Batterers' existing value systems may be more easily fine-tuned to emphasize nonviolence (e.g., building on religious convictions or humanism) without a feminist overlay.

Another concern is that educational programs may effectively transmit information without deterring violent behavior. A 1991 evaluation of three short-term psychoeducational batterer programs in Baltimore found that while batterers considered the curriculum helpful, they recidivated at a higher rate than batterers who did not receive treatment. A study of graduates of Duluth's Domestic Abuse Intervention Project found that completion of the feminist educational intervention had no impact on recidivism after five years. (NIJ report, pages 6 and 7 of appendice 1).

Another criticism of the feminist power and control theory is that it simply does not acknowledge that men are the victims of domestic violence perpetrated by women even though in Florida, according to the Florida Department of Law Enforcement, 25% of those who commit domestic violence are women. (see the introduction to the January 2000

Certification Procedures and Minimum Standards for Assessors and Batterer's Intervention report of the Florida Dep't. of Corrections Office of Certification and Monitoring of Batterer's Intervention Programs attached as appendice 2). The feminist theory does not acknowledge domestic violence by women against men because the feminist theory only contemplates violence by men against women which supposedly is the result of a patriarchal society which endorses the violence.

A curious part of the commentary to recommendation #6(d) states that judges need "information on why anger management classes may endanger victims and their children before judges can make the best decision in a domestic violence case." The NIJ report includes a discussion of anger management in a part titled, "Controversial Approaches to Batterer Intervention." It is curious why the commentary to #6(d) focuses on anger management when each intervention model has its criticisms. As can be seen from the criticisms of the feminist theory and the studies which show completion of the power and control intervention model actually increases recidivism, the commentary could also contain a warning that judges need information on why the power and control theory may endanger victims and their children in a domestic violence case. If the Court approves any mandatory training on domestic violence, the commentary should read as follows to guarantee that it is accurate: "Judges need comprehensive education in the dynamics of domestic violence including the feminist theory, the family systems theory, and the psychotherapeutic theory." As currently written, the commentary to #6(d) leads to the inference that the Florida Supreme Court has accepted the feminist theory on domestic violence as the theory on which judges should receive mandatory instruction.

## II.

The Court should be aware of previous attempts by special interest groups to impose mandatory domestic violence education on the judiciary through legislation. House Bill 447 and Senate Bill 1176 were defeated in the 1999 Florida legislative session. (see copies attached with legislative history marked as appendice 3). If they had become law these bills would have mandated that judges receive mandatory domestic violence education developed by the Florida Court Educational Council. The proposed

legislation would have required the Florida Court Education Council to maintain records of all judges who attended educational programs on domestic violence, make such records available for public inspection, and also report the judges' attendance to the Governor, the President of the Senate, and to the Speaker of the House of Representatives. The defeat of this legislation makes one wonder whether the special interest groups that were unsuccessful in the legislature have diverted their efforts directly to the judicial branch through the model family court proposal before the Court in the instant case.

### III.

The Commentary to #6(d) indicates that the proposals for mandatory education and continuing education is based on the Family Court I, 588 So.2d at 589, suggestion that the Florida Court Education Council develop courses in subjects including family mediation, uniform child custody act, child sexual abuse matters, and taxation as it affects family law cases. The recommendations for mandatory training and continuing education, however, goes way beyond the scope of the suggestions made in Family Courts I. The suggested courses in Family Courts I are mostly education in the law and in other areas, such as psychological testing, which are objective in nature and not subject to disagreement or controversy. Psychological tests such as the Minnesota Multiphasic Personality Inventory (MMPI), the Rorschach test, and the Wechsler Intelligence Scale for Children are examples of psychological tests that are routinely used, they are objective, and they are not controversial. Instruction on these tests may be helpful to judges. The recommendations in #6(c) and #6(d), however, include mandatory training and continuing education in fields that are not objective - such as behavioral science, domestic violence and child attachment theory. As can be seen from the above discussion of the feminist theory on domestic violence, behavioral science is not a precise or objective science at all. The theory and findings in behavioral science is often dependent on the ideological outlook of the researcher and the philosophy or ideology of the organization or special interest that is funding the research. The commentary to #6(d) demonstrates the subjectivity of behavioral science research. The commentary states that, "Only recently, have studies provided empirical evidence on the importance of fathers to children's physical and psychological development." One

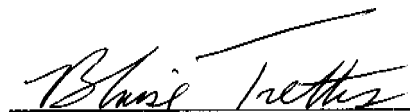
has to wonder why it is that this obvious conclusion has only recently been reached? Any adult, whether they were raised with a father or without a father, would know the importance of a father to a child's development. Do we really need a set of numbers (i.e. empirical evidence) to tell us what we already know?

The recommendation and commentary that propose continuing education in non-legal subjects such as "family systems" (whatever that is), behavioral sciences, and attachment theory invite special interest groups with agendas based on ideology rather than science to "educate" the judiciary. The NIJ report discusses the influence that the feminist theory has had in the domestic violence behavioral science field. The commentary to #6(d) states that judges need to understand child attachment theory before making a child custody decision. Without knowing this to be the case, maybe there is a feminist child attachment theory which holds that a child should always be with the mother and never with the father. If one were to look hard enough one could probably find a behavioral science "expert" or behavioral science research that would support this theory or any number of other theories.

#### IV.

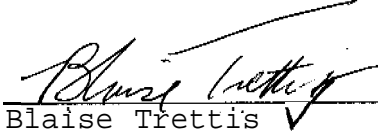
For the foregoing reasons it is respectfully suggested that the Court not include in any model family court plan the requirement that judges receive mandatory training in domestic violence or the recommendation that there be continuing education in "family systems" or behavioral sciences including education in child attachment theory. Finally, it is suggested that the term "quasi-judicial officers" not be used. This is a strange sounding term that is used synonymously with hearing officer. The term hearing officer should be used or general master or special master as provided in Fla. R. Civ. P. 1.490.

Respectfully submitted this  
28<sup>th</sup> day of November, 2000.

  
Blaise Trettis  
Fla. Bar No. 0748099

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing was sent by mail delivery to Judge Raymond T. McNeal, Fifth Judicial Circuit, 110 N.W. 1st Ave., Third Floor, Ocala, FL 34475 this 28<sup>th</sup> day of November, 2000.

A handwritten signature in cursive script, appearing to read "Blaise Trettis", is written over a horizontal line.

Blaise Trettis  
Fla. Bar No. 0748099  
2725 Judge Fran Jamieson Way  
Building E, Second Floor  
Viera, FL 32940  
(321) 617-7373



# National Institute of Justice

## Issues and Practices

### Batterer Intervention: Program Approaches and Criminal Justice Strategies



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# Chapter 2

## The Causes of Domestic Violence: From Theory to Intervention

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### Key Points

- Most interventions employ a mixture of theories in their curriculums, the most common of which is a psychoeducational model that encourages profeminist attitude change while building interpersonal skills using cognitive-behavioral techniques.
- Three categories of theories of domestic violence dominate the field. Each locates the cause of domestic violence differently, and each theory leads practitioners to employ different approaches to batterer intervention:
  - **Society and Culture.** Social and cultural theories attribute the problem to social structure and cultural norms and values that endorse or tolerate the use of violence by men against women partners. The *feminist* model of intervention educates men concerning the impact of these social and cultural norms and attempts to resocialize them emphasizing nonviolence and equality in relationships.
  - **The Family.** Family-based theories of domestic violence focus on the structure of the family, interpersonal interactions within the family, and the social isolation of families. The *family systems* model of intervention focuses on developing healthy communication skills with a goal of family preservation and may use couples therapy, a treatment approach prohibited by 20 State standards and guidelines regulating batterer intervention (to protect the safety of the victim).
  - **The Individual.** Psychological theories attribute domestic violence to personality disorders, the batterer's social environment during childhood, biological disposition, or attachment disorders. *Psychotherapeutic* interventions target individual problems and/or build cognitive skills to help the batterer control violent behaviors.
- Both feminist educational and cognitive-behavioral interventions can be compatible with the goals of the criminal justice system—protecting the victim as well as rehabilitating the offender. However, feminist educational programs offer some advantages. By contrast, family systems interventions conflict with criminal justice goals by failing to identify a victim and a perpetrator, an identification the law requires.

The origins of domestic violence are the subject of active debate among victim advocates, social workers, researchers, and psychologists concerned with batterer intervention. More than in most fields, the theoretical debate affects practice. Over the last two decades, a number of practitioners representing divergent theoretical camps have begun to move toward a more integrated “multidimensional” model

of batterer intervention in order to better address the complexity of a problem that has psychological, interpersonal, social, cultural, and legal aspects. Two practitioners who advocate an eclectic approach to batterer intervention describe the dilemma of practitioners looking for a single explanation for battering as follows:

During a recent conversation, a respected colleague of ours suggested that marital aggression was rooted in a need for control. "Men," he said, "use aggression to control their female partners." We agreed. Control is certainly an important factor in the dynamics of marital violence. His treatment approach, well known and effective, focused on helping abusers relinquish control and share power with their spouses. Several weeks later, we discussed the same topic with the director of a treatment program for wife abusers, who stated that "poor impulse control" and "defective self-concept" were the critical factors. We agreed. Abusers are certainly impulsive and often have poor self-esteem. Her treatment program, which focused on these factors was, she claimed, very successful. Sometime later, one of our graduate students, well aware of these previous conversations, reported on a workshop she had attended. The model presented at the workshop conceptualized marital violence as a couples' problem and suggested that communication between spouses was the critical factor. Conjoint couples' counseling was suggested as an effective intervention for violent couples. Again, we could agree. The safest conclusion would appear to be that there are numerous routes by which husbands come to be wife abusers and a multitude of variables that increase the likelihood of violence.'

In practice, few batterer programs represent a "pure" expression of one theory of domestic violence; the majority of programs contacted for this report combine elements of different theoretical models. As a result, when discussing program theory with batterer intervention providers, criminal justice professionals need to understand not only the primary theory the program espouses but also the program's content, because programs may identify with one theory but draw on or two more theories in their work. Experts caution criminal justice agencies against accepting an eclectic curriculum uncritically: program components borrowed from different theoretical perspectives should be thoughtfully chosen to create a coherent approach, not a scattershot attempt hoping to hit some technique that works.

Criminal justice professionals are likely to encounter programs based on one or more of the following theories of domestic violence. Each theory locates the cause of the violence differently:

- **Society and culture**—Social theories of domestic violence attribute the problem to social structures and cultural norms and values that endorse or tolerate the use of violence by men against women partners. For example, *the feminist model* of intervention educates men concerning the impact of these social and cultural norms and attempts to resocialize them emphasizing nonviolence and equality in relationships.

- **The family**—Some sociologists locate the cause of domestic violence in the structure of the family, the interpersonal interactions of families, and the social isolation of families. For example, **family systems theory** attributes the cause to communication problems and conflict within intimate relationships and teaches communication skills to help partners avoid violence. As noted below, couples counseling, an intervention based on family systems theory, is controversial because of its failure to assign blame for the abuse to one person and to identify a victim. Couples counseling is also considered dangerous to the victim because it encourages the victim to discuss openly issues that may spark later retaliation by the batterer.

- **The individual-Psychological theories** attribute domestic violence to the individual batterer's predispositions and experiences. Battering may be attributed to personality disorders and biological dispositions to violence or, as **social learning theory** suggests, to the role of the batterer's social environment during childhood.

**Attachment theory**, a form of social learning theory, focuses on the interaction of caregivers with their children and the impact of that first attachment on an individual's ability to establish safe and healthy relationships later in life. Batterer interventions based on this theory attempt to facilitate secure attachments between batterers and loved ones (intimate partners, children, and parents). Psychodynamic approaches target the underlying psychological cause of the violence, while cognitive behavioral approaches teach batterers new patterns of nonviolent thinking and behavior.

It is important for criminal justice professionals to understand the assumptions and goals of service providers whose interventions have divergent theoretical bases, because not all intervention approaches employ techniques that are equally compatible with the goals of the criminal justice system—protecting the victim as well as rehabilitating the offender.

## ***The Language of Batterer Intervention***

The shift in providers of help to batterers and their partners from psychotherapists to feminist social activists to professional mental health providers has created tensions in the field that are exhibited in the language of batterer interventions. Criminal justice professionals need to be aware of the connotations of various terms so that they can communicate effectively with service providers.

For example, the term "domestic violence" itself has a gender-neutral connotation. A number of feminists, seeing a link with other violence against women and noting the severity of injuries inflicted on women by male partners, prefer such terms as "wife abuse" and "woman abuse."<sup>2</sup> Programs based on feminist theories of battering are often described as "profeminist," indicating male support for feminist goals. Mental health professionals may talk about "counselors" or "therapists" providing "treatment" to "clients," while profeminist "facilitators" or "teachers" provide an "intervention" to "batterers" using a didactic format described as "classes." Feminist-based programs object especially to the word "treatment" and may not consider rehabilitation the program's primary goal, as Red Crowley of Atlanta's Men Stopping Violence program explains:

Let's start with the word *treatment*. We do not see our work as therapy. Battering is the natural outgrowth of patriarchal values. We want to change those values. Batterers' intervention classes serve a number of purposes: they, like shelters, make visible what has been systematically concealed, that is, the horrendous problem of violence against women; create an opportunity to engage the community and the criminal justice system in the effort to stop the violence; and contribute to research. Giving men who want to change the opportunity to do so is just one purpose of the intervention.

The three most widely used intervention approaches—"educational" or "psychoeducational classes," "couples therapy," and "group process"—are each associated with a theory of the cause of domestic violence. Thus, "educational programs" are most often based on feminist theory; "couples therapy" may suggest a link with family systems theory; and "group process" programs base their work on either psychodynamic or cognitive behavioral theories. Some practitioners—especially those with eclectic programming—may use terms interchangeably; others harbor strong objections to mislabeling their approach and consider some terms to have great symbolic meaning. Criminal justice professionals need to be sensitive to the language used by intervention providers and to ask practitioners to explain the importance of unfamiliar terminology.

## **Overview of Theories and Related Interventions**

Feminist (or profeminist; see box, "The Language of Batterer Intervention"), family systems, and psychotherapeutic theories of domestic violence offer divergent explanations of the root causes of battering and lead to distinct intervention models. The following section outlines the basic tenets of each theory, illustrates how these assumptions influence the choice of intervention strategies, and notes the advantages

and disadvantages of each theoretical and treatment approach. As noted previously, however, examples of programming based exclusively on one theory are becoming increasingly rare.

### ***Feminist Approaches: The Social Problem Approach***

Batterer intervention programs originated in the early 1970's, as feminists and others brought to public attention the

victimization of women and spawned grass roots services such as rape hot lines and battered women's **shelters**.<sup>3</sup> According to Anne Ganley of Seattle's Veteran Administration Medical Center and David Adams of EMERGE in Boston, providers of services to battered women felt that victims who had received services either returned home to face the same destructive environment or left the relationship-and the batterer found a new victim. To help victims, advocates realized, it was also necessary to address the root cause of their problems-the perpetrators of violence. Profeminist men concerned with sexism in themselves and society felt a particular responsibility for working with male abusers. As a result, some of the **first** systematic interventions for batterers developed from a profeminist perspective.

### *What Is a Feminist Model of Battering?*

Central to the feminist perspective on battering is a gender analysis of **power**.<sup>4</sup> According to this view, domestic violence in intimate relationships mirrors the patriarchal organization of society in which men play a dominant role in most social institutions. Along with verbal, emotional, and economic abuse, violence is a means of maintaining male power in the family when men feel their dominance is being threatened. Economic roles have left women dependent on men and unable to escape abusive **situations**.<sup>5</sup> Men's superior physical strength may enable them to dominate women through violence.

Feminists argue that a consequence of the social arrangement in which men hold the positions of respect and power is that men and women alike devalue the feminine and overvalue the masculine. To the batterer, women are childlike and incompetent. It is not uncommon for batterers to convince their wives that they are not capable of adult activities, such as driving a car or holding a **job**.<sup>6</sup> For example, a former victim reported that her husband had convinced her that she could not turn on the washing machine without breaking it, so she had to wait until he returned from work before she could do the laundry for their seven children. Similarly, in disputed custody cases when a batterer and partner separate, the husband often contends that his wife is incapable of taking care of the children.'

In the feminist view, batterers feel that they should be in charge of the family: making decisions, laying down rules, disciplining disobedient wives and children, and correcting unsatisfactory performance of **duties**.<sup>8</sup> Batterers may typically exercise control over the family in nonviolent, coer-

cive ways and only sometimes resort to violence. As men, batterers feel entitled to gender-based respect and obedience; therefore, what they perceive to be disrespect and disobedience infuriates them. Batterers often rationalize their violence on the grounds that it was necessitated by their partner's actions: she provoked or caused it, and they simply reacted as any man would.

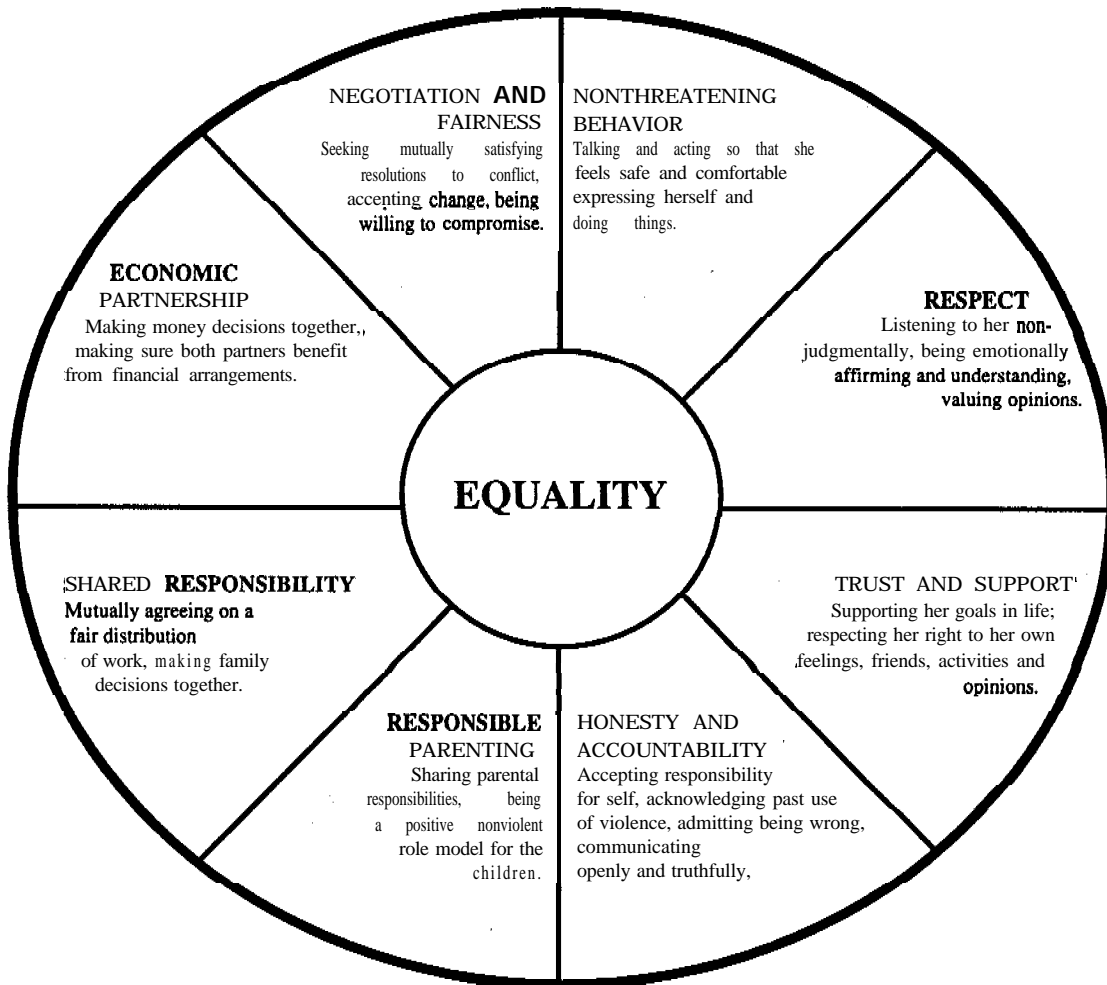
Feminist programs attempt to raise consciousness about sex role conditioning and how it constrains men's emotions and behavior (through education around sexism, male privilege, male socialization). Programs with a feminist philosophy present a model of egalitarian relationships along with the benefits of nonviolence and of building relationships based on trust instead of fear (see exhibit 2-1, "Equality Wheel"). Most feminist approaches support **confronting** men over their power and control tactics in all domains of the relationship, including verbal and psychological abuse, social isolation, the undermining of the victim's self-confidence, and sexual coercion (see exhibit 1-1, "The Power and Control Wheel"). A particular concern of profeminist male group facilitators is the constant risk and temptation of colluding with batterers. For example, a male facilitator at Family Services of Seattle reported that when his femalecofacilitator was absent at one session, the men in the group expected him to drop his profeminist "guise" and participate in or agree with their negative characterizations of women.

### *Advantages and Criticisms of the Feminist Model*

Perhaps because work with batterers was originated by battered women's advocates and feminists, the feminist perspective has influenced most programs. A national survey conducted in 1986 found that 80 percent of programs attempt to change sex role attitudes, stop violence, and increase **self-esteem**.<sup>9</sup> Even programs adopting a family systems model (see below) may advocate an egalitarian and democratic relationship to couples in treatment. Support for the feminist analysis of the role of power in domestic violence comes from the observation that most batterers are able to control their anger and avoid resorting to violence when "provoked" by someone more powerful than they, such as their work supervisors, police officers, or judges. Further support for the feminist analysis comes from research showing that batterers are less secure in their masculinity than **nonbatterers**<sup>10</sup>-the theory being that men who do not feel masculine will need to assert their masculinity more forcefully to compensate for their sense of inadequacy. Other studies have documented the sense of *entitlement* batterers feel in controlling their partners' behavior and in

## Exhibit 2-1

### Equality Wheel\*



\*Reproduced with the permission of the Domestic Abuse Intervention Project, 206 West Fourth Street, Duluth, Minnesota, (218) 722-4134.

justifying violence if these women deviate **from** the female sex **role**.<sup>11</sup>

Critics have claimed that the feminist perspective overemphasizes **sociocultural** factors, such as patriarchal values, to the exclusion of individual factors like growing up abused.\* Men's behavior in intimate relationships varies across individuals, and broad cultural factors cannot explain this variability. Feminist theory predicts that *all* men in our society will be abusive, claim its critics, adding that besides

being untrue, this theory makes it impossible to predict which men will be violent. To make individual predictions, a model must assign a role to other factors including, but not limited to, psychological deviance.

Other criticisms center not on the validity of feminist explanations of battering but on the translation of that theory into programming. For example, some observers argue that feminist educational interventions are too **confrontational** in tone and, as a result, are ultimately self-defeating, alienating



batterers, increasing their hostility, and making them less likely to become engaged in treatment. It is possible that the goal of the feminist model—to rebuild the batterer's belief system in order to achieve nonviolence—may be unnecessarily ambitious and adversarial. Batterers' existing value systems may be more easily fine-tuned to emphasize nonviolence (e.g., building on religious convictions or humanism) without a feminist overlay.

Another concern is that educational programs may effectively transmit information without deterring violent behavior. A 1991 evaluation of three short-term psychoeducational batterer programs in Baltimore found that while batterers considered the curriculum helpful, they recidivated at a higher rate than batterers who did not receive treatment.<sup>13</sup> A study of graduates of Duluth's Domestic Abuse Intervention Project found that completion of the feminist educational intervention had no impact on recidivism after five years.<sup>14</sup> Outcomes such as these point to the need for broader evaluations that examine the impact of systemic factors—arrest and prosecution policies, court procedures, and probation supervision—on intervention effectiveness, as well as a clarification of the goals of feminist-based interventions. If deterrence is not a likely outcome of an intervention, other goals, such as punishment, education, behavioral monitoring, or social change, must be explicitly advanced. (A few practitioners are in fact shifting their primary focus away from individual change in batterers in favor of social change through a coordinated community response. See chapter 5, "Criminal Justice Response").

### ***The Family Systems Model***

The family systems model regards individual problem behaviors as a manifestation of a dysfunctional family unit, with each family member contributing to the problem. Rather than identifying one individual as the cause of the violence and removing that person from the home or singling that person out for treatment, the model advocates working with the family or couple together, providing support with the goal of keeping the family intact.

According to the family systems (or "interactional") model,<sup>15</sup> both partners may contribute to the escalation of conflict, with each striving to dominate the other. Family systems theorists believe that most abuse is verbal and emotional, but as the conflict escalates, either partner may resort to violence. Because, from this perspective, *interactions* produce violence, no one is considered to be the perpetrator or victim, even if only one person is physically violent. Family

systems theory also suggests that interactions may permit or facilitate abusive behaviors in one person, such as a nonabusive parent's failure to intervene in child abuse or a family member's failure to establish appropriate personal boundaries, thus setting the stage for their own victimization. Family systems therapists criticize psychological approaches that focus on individual deficits (low self-esteem, dependence, anger) while neglecting to teach interpersonal skills that could promote safety. Family systems theory leads to treatment that involves improving communication and conflict resolution skills. Both members of the couple can develop these skills through "solution-focused brief therapy" that:

- locates the problem in the interaction rather than in the pathology of one individual;
- focuses on solving the problem, rather than looking for causes; and
- accentuates the **positive**—for example, examining occasions when the couple avoided violence.

### ***Advantages and Criticisms of the Family Systems Model***

Advocates of the family systems approach note that many violent couples would like to remain together and that there may be positive aspects to the relationship that counseling can build on. However, while some observers report that over half of domestic violence couples remain together," a study of abused wives whose husbands did become nonviolent found that most of the women subsequently terminated the marriage because of other marital problems that became apparent after the violence ended."

Both feminist and cognitive-behavioral approaches agree that partner abuse does not involve shared responsibility. Both approaches firmly hold that batterers bear full responsibility for the violence, victims play no causal role, and no one incites violence. Of particular concern to both feminist and cognitive-behavioral proponents is the format of couples counseling: encouraging each partner to discuss problems openly with the other partner can put the victim at risk after the session if the woman expresses complaints. Furthermore, no frank exchange between counselor and victim concerning the abuse is likely to be possible in the presence of the batterer. Moreover, the format is conducive to **victim-blaming**. Finally, if the court prohibits the batterer from contacting the victim, the family systems approach will violate the court order. For these reasons, couples

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counseling is expressly prohibited in 20 State standards and guidelines (see box, "Controversial Approaches to Batterer Intervention" and appendix A.3). Judges involved with partner abuse cases that also involve child abuse need to pay **particular** attention to safety issues raised by family systems interventions, which may be the treatment approach recommended by child welfare workers who are working toward a goal of family reunification. In such cases, issues of victim and child safety must be weighed carefully, and if a family systems approach is chosen, close monitoring is needed.

### ***Psychological Approaches: A Focus on Individual Problems***

Psychological perspectives hold that personality disorders or early experiences of trauma predispose some individuals to **violence**.<sup>18</sup> Being physically abusive is seen as a symptom of an underlying emotional **problem**.<sup>19</sup> Parental abuse, rejection, and failure to meet **a child's** dependence needs can be the psychological source of battering. People with these underlying problems may choose partners with whom they can reenact the dysfunctional relationship they had with their parents. Two forms of batterer intervention have evolved from this perspective: individual and group psychodynamic therapy and cognitive-behavioral group therapy.

#### ***Individual and Group Psychodynamic Counseling***

Psychoanalysis can be undertaken not only in individual counseling but also in unstructured batterer groups that allow members to explore their life experiences. Psychodynamic therapies involve uncovering the batterer's unconscious problem and resolving it consciously. Proponents of psychodynamic therapy for batterers believe that other interventions are superficial: since other therapies are unable to eliminate the abuser's deep-rooted and unconscious *motive* for aggression, they cannot end violence but only suppress it temporarily. Long-term change requires exposing and resolving the root cause of the violent behavior.

#### ***Advantages and Criticisms of Psychodynamic Approaches***

Browne and Saunders recently conducted a study comparing a "process psychodynamic treatment model" with a feminist/cognitive-behavioral intervention and found no difference in recidivism rates based on partners' reports. Nevertheless, they argue:

**[T]here** were two advantages to the process-psychodynamic model. It retained a significantly higher percentage of men in treatment and it was more successful with men who had dependent personality disorders. **Regardless of the treatment approach used, more self-disclosure and less lecturing were related to greater group cohesion, which in turn was related to lower recidivism rates.**<sup>20</sup> (Emphasis added)

Critics argue that psychodynamic therapy merely assigns a psychiatric label to people who batter (e.g., insecure, narcissistic, dependent, compulsive, or suffering from intermittent explosive disorder) without explaining how they got that way or what can be done about it." The psychodynamic approach has also been criticized for allowing batterers to continue the behavior until the underlying psychological problem is resolved.<sup>22</sup> David Adams, director of EMERGE, gives the example of a batterer mandated to treatment who had already learned in individual psychotherapy that he battered because he was insecure. At the intake interview for the batterer program, the counselor asked the man whether he was going to continue to choose to be violent until he resolved his insecurity. The man said that he had never thought of battering as a choice, but now he would reconsider the **notion**.<sup>23</sup> Feminists argue that labeling batterers as having psychological problems not only exonerates them in their own eyes but also ignores the cultural acceptability of male dominance in the family and how it serves to keep the batterer in control of his partner. The approach pays attention to **internal** psychological functions of abuse for the batterer but ignores the *interpersonal* function of controlling the other person's behavior.

In practice, many psychologically oriented programs have moved away from the original stance that battering is caused primarily by psychological disorder and always indicates an emotional problem. Instead, they have integrated social explanations with psychological explanations. For example, some psychologically oriented theorists propose that it is the combination of a man's low self-esteem and a cultural expectation that men should be dominant and successful that produces a batterer.

#### ***Cognitive-Behavioral Model of Change***

Cognitive-behavioral therapy is used in the treatment of violent offenders. Whereas the psychoanalytic tradition focuses on psychological disorders based in the unconscious and early childhood experiences, the cognitive-behavioral

model focuses on conscious material in the present: therapy is intended to help individuals function better by modifying how they think and behave in current situations. The theory behind cognitive-behavioral batterer interventions maintains that behaviors are learned as a result of positive and negative reinforcements (rewards and punishments) for engaging in particular behaviors under particular circumstances (e.g., parental pride or praise for aggressive behavior). Behavior is also influenced by how people mentally construct and interpret their environment and experiences—that is, the way they think about themselves, other people, and their relationships. The cognitive-behavioral theory postulates that men batter because:

- they are imitating examples of abuse they have witnessed during childhood or in the media;
- abuse is rewarded;
- it enables the batterer to get what he wants; and
- abuse is reinforced through victim compliance and submission.

Cognitive-behavioral interventions focus on “cognitive restructuring” and skill building. Counselors focus on identifying the chain of events that lead each batterer to violence,

starting with beliefs and “self-talk”—the way we talk to ourselves in our minds (see **exhibit 2-2**, “A Cognitive Model of Woman Abuse”). For example, a batterer whose partner is ten minutes late may tell himself, “She’s out with her boyfriend” or “She can’t be trusted.” The programs attempt to restructure the beliefs and “self-talk” that lead to violence; for example, “I don’t know why she’s late, but I’m sure she’s trying to get here.” The programs help batterers to analyze the thought patterns underlying violent reactions (e.g., “Dinner isn’t ready because my wife doesn’t respect me”) and learn new ways of understanding situations that trigger violence (e.g., “Dinner isn’t ready because my wife had a busy day”). The program teaches nonviolent alternative behaviors, such as conflict-resolution tactics, relaxation techniques, and communication skills.\*

#### ***Advantages and Criticism of the Cognitive-Behavioral Models***

One advantage of the cognitive-behavioral model is that its analysis of battering and its intervention strategy are compatible with a criminal justice response to domestic violence. The approach holds the batterer fully responsible for his violence and fully responsible for learning and adopting nonviolent alternatives. Without trying to solve larger issues of social inequality on the one hand, or delving into

## ***Attachment Abuse***

A small number of practitioners base batterer interventions on psychological theories of attachment, affect, and individuation. These interventions consider battering to be “attachment abuse”—that is, abusive behaviors toward intimates arising from the individual’s insecure attachment to his or her caregivers as a child. Attachment theory describes two broad categories of attachment relationships: *secure attachments* that result from the caregiver’s responsiveness to the child’s emotional and physical needs, and a range of *insecure attachment* patterns that may develop if a child’s emotional and physical needs are not met by caregivers. Insecure attachments in childhood may lead, in adult relationships, to emotional distress, anxiety, anger, depression, and emotional detachment when the specter of loss or separation arises in an intimate relationship. These feelings may lead to attachment abuse.

Batterer interventions based on theories of attachment, such as the Compassion Workshop (see chapter 4), seek to enhance the batterers’ ability to regulate their own emotions and to stimulate a sense of “compassion” for both themselves and their intimates (partners, children, and elders) using cognitive behavior techniques that are designed to interrupt the batterers’ violent emotional response to guilt, shame, and fear of abandonment.

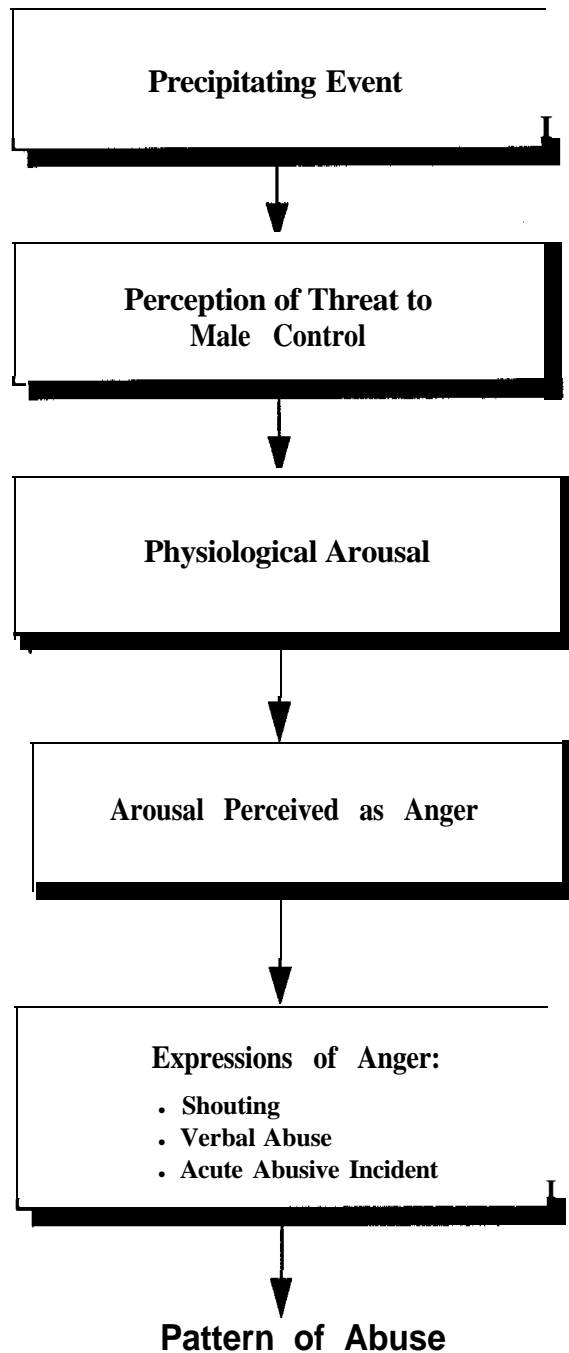


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***Exhibit 2-2***

***A Cognitive Model of Woman Abuse\****



• Adapted from Donald Dutton, "An Ecological Nested Theory," in *Feminist Psychology in Transition*, ed. P. Caplan, 1984.

## Controversial Approaches to Batterer Intervention

The following approaches, although commonly used, are controversial. Criminal justice professionals referring batterers to programs that feature these techniques must be careful to learn how these approaches are being integrated into the programs and be wary of programs using these methods as their primary intervention.

### Anger Management

While some researchers have suggested that a small percentage of battering may be attributable to a psychological disorder involving uncontrollable rage,<sup>25</sup> the "anger management" model attributes battering to out-of-control (rather than uncontrollable) anger. Anger management programs offer a short-term intervention that teaches batterers to recognize the physiological signs of anger and to then implement relaxation techniques to defuse the anger.<sup>26</sup> The intervention may also teach stress management and communication skills.<sup>27</sup> Many batterer treatment providers disavow the single-focus "anger management" treatment, instead incorporating anger management as one component of their intervention, sometimes under another name.

Critics have raised several concerns about the anger management approach—even as a component of more comprehensive treatment:

- Anger management programs address a single cause of battering, ignoring other, perhaps more profound, causes.<sup>28</sup>
- According to the feminist model, although they may claim to feel out of control, batterers are *not* out of control: battering is a decision, a choice. The social learning model adds that batterers choose to use or threaten violence because of its effectiveness in controlling their partners. The violence persists because it is rewarded.
- Anger management programs teach batterers nonviolent ways to control their partners. If the underlying issue of batterer control of the victim is not addressed, critics maintain, men will misuse the techniques used to "control" anger—stress management and communication skills—to continue to control the victim. For example, a batterer could refuse his childcare responsibilities on the grounds that it is stressful.
- According to "misattribution of arousal" theory, men learn to label all strong emotional states as anger when they are, in fact, experiencing feelings of betrayal or hurt.
- Interventions therefore need to focus on identifying the underlying emotion men are feeling in situations in which they batter rather than on means of controlling the mislabeled anger.<sup>29</sup>
- Two studies of anger management interventions that were parts of comprehensive batterer treatment programs found that men who completed the programs but whose violence continued reported that they had used anger management techniques to attempt to control their violence, whereas men who were successful in avoiding violence after the program said they ended their abuse through empathy, a redefinition of manhood, and cooperative decisionmaking.<sup>30</sup>

(continues)

Finally, some practitioners are concerned that any short-term, single-focus approach can be dangerous because it gives victims, judges, and batterers the illusion that the problem has been solved. Some practitioners feel that the availability of brief, inexpensive anger management programs even undermines the credibility of the more difficult, lengthy, and expensive treatments other programs provide. One-time "Saturday Afternoon Special"-style anger management programs arouse particular concern among practitioners who feel that such short-term programs trivialize the severity of the problem in the eyes of the batterer and are unlikely to have any deterrent effect.

### ***Individual and Couples Counseling***

Many practitioners disapprove of—and at least 20 State standards and guidelines expressly prohibit—couples counseling for batterers. In addition, a number of program directors disapprove of individual counseling as the sole intervention for battering. Group work is considered important in helping abusers to overcome their denial by hearing other men acknowledge and deal with their behavior, and to break the isolation that is considered part of the syndrome of abuse.

Although systematic research comparing couples and group interventions has not been conducted,<sup>31</sup> anecdotal evidence and the beliefs of providers (many of whom serve on committees to draft or approve State standards or guidelines) have limited the utilization of couples therapy for domestic violence. The practitioners' disapproval is based on a belief that victims of abuse are intimidated and cannot fully participate in therapy in the presence of their abusers. If victims do reveal the batterer's violence or disclose other problems, they face the threat of reprisal. Restrictions on couples therapy and individual psychotherapy for battering are a point of contention between feminist-oriented batterer intervention providers and mental health providers in many communities.

### ***Self-Help Groups: Batterers Anonymous***

Self-help batterer groups are modeled on Alcoholics Anonymous and Parents Anonymous. Member-run support groups are facilitated by former batterers who have been nonviolent for at least a year.<sup>32</sup> Although there are some ground rules and facilitators may introduce specific topics, the approach is unstructured, with members setting the agenda, usually addressing their personal concerns.

Self-help or support groups are an accepted model of *follow-up* for batterers who have completed a program and want continued support to prevent relapse, to continue the change process, or to have a place to address ongoing problems. Self-help groups are controversial as an *initial* intervention, however, because it is questionable whether former batterers—especially those who have been nonviolent for only a year—are qualified to conduct groups, unless they have been extensively involved with a program, have been trained, and are supervised. In addition, facilitators tend to use an aggressive, even belligerent, style of confrontation that more traditional programs view as inappropriate modeling of antagonistic behavior that borders on abuse. By contrast, other professionals are concerned that support groups run by former batterers may be insufficiently confrontational about members' excuses for violence and too supportive of batterers' hostility toward women.

deep-seated psychological issues on the other, the cognitive-behavioral approach simply focuses on the violent acts themselves and attempts to change them. The model also offers a straightforward intervention that can be implemented in a limited period of time.

The feminist perspective criticizes the cognitive-behavioral approach for failing to explain why many men with thought patterns or skills deficits that allegedly explain their domestic violence are not violent in other relationships, how culture or subcultures influence patterns of violence, and why some men continue to abuse women even when the behavior is not rewarded.<sup>33</sup> These criticisms are usually moot because most cognitive-behavioral programs integrate the feminist analysis of domestic violence, both in the cognitive component (for example, by examining thoughts that encourage wife-beating, such as "She should obey me. I'm the man of the household.") and the social learning aspects (forexample, by discussing how sexism in the media and in society provides models of social support for abusing and degrading women). (See exhibit 2-3, "Example of an Integrated Feminist/Cognitive-Behavioral Strategy.")

## Compatibility of the Models With Criminal Justice Goals

The feminist educational approach to batterer intervention is theoretically more compatible with a criminal justice perspective than either the family systems or psychotherapeutic approaches in several respects.<sup>34</sup>

- The feminist educational view of domestic violence is that the behavior is criminal, not just the result of faulty couple interactions or mental illness.
- The feminist educational view is that consequences are appropriate. By contrast, the psychotherapeutic explanation results in a treatment approach that is designed to modify the inner emotional life of the batterer through insight and possibly medication. Changing the inner person and prescribing medication to alter behavior may be considered by some to be beyond the scope of a criminal justice intervention.
- The primary goal of feminist educational programs is to hold batterers responsible for their violence. While most psychological programs also make this claim, feminists believe that the psychotherapeutic view of batterers as victims of childhood trauma or other mistreatment undercuts a program's ability to hold batterers

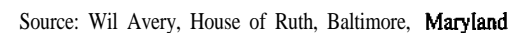
responsible. The family systems approach-unlike the criminal justice system-holds the victim as well as the batterer accountable.

- The explicit goal of feminist educational approaches is to end the abusive behavior rather than to heal the batterer (the psychotherapeutic goal) or to improve relationships (the family systems goal).

A case can be made, however, that psychological interventions can also meet the needs of the criminal justice system. The aim of the criminal justice system in sending men to batterer programs is to reduce recidivism; for this to happen, the intervention has to be effective. While advocates of the feminist educational model criticize the psychotherapeutic model for failing to hold batterers responsible for their behavior, advocates of the psychotherapeutic approach respond that educational interventions are not successful in deterring or rehabilitating batterers because they are too short and superficial and do not address the needs of batterers with severe mental illness, who may comprise up to 25 percent of all batterers.<sup>35</sup> Indeed, the "confrontational" and didactic process of the feminist model-as well as the feminist rhetoric in which it is framed-may alienate the batterer and increase his hostility and resistance. For example, an assistant group facilitator for the Compassion Workshop in Silver Spring, Maryland, reported that, when he was in treatment, feminist interventions had only increased his anger and denial, while subsequent, nonconfrontational, compassion-based treatment had helped him become nonviolent. His wife, a cofacilitator of the group whose role was to give the perspective of the victim, agreed that the feminist education model had exacerbated her husband's abuse but that after psychologically oriented counseling, he was now violence free.

While the narrow treatment goals of the strictly educational feminist programs are compatible with the criminal justice view-simply stopping the abusive behavior as expeditiously as possible and holding the batterer responsible-the feminist theory of domestic violence also has broad social goals that may be seen as going beyond the purview of the criminal justice system. Because feminist theory locates the cause of domestic violence in social structures and the organization of society, social change may be seen as the ultimate goal of the curriculums. In a sense, though, even this broad goal is consistent with a criminal justice agenda in that it suggests that broad-based community education and a coordinated community response are necessary for preventing domestic violence. In contrast, it is difficult to identify a broad prevention strategy that follows from either

# The Causes of Domestic Violence: From Theory to Intervention





the individualistic psychotherapeutic theory of domestic violence or the family systems model.

Finally, some practitioners and criminal justice professionals are beginning to regard any form of batterer intervention as a proxy for intensive probation. While the curriculum may not deter reoffenses over time, at least during program participation batterers are being monitored closely, and their victims are receiving at least minimal attention and referrals. This heightened vigilance with regard to the batterer's behavior and the victim's welfare is compatible with criminal justice goals.

As will be seen in the following chapters, however, theoretical compatibility with the criminal justice system is not the only important factor in selecting a batterer intervention. On a practical level, interventions must be able to retain batterers in treatment and address any obstacles to program participation.

## Conclusion: Multidimensional Models Dominate the Field

Many practitioners accept that there are compelling features in more than one theoretical model. In practice, regardless of their primary perspective, most programs have adopted some tenets of the feminist model. For example, they view sexual inequality and masculine role expectations of dominance as core issues to address-along with **cognitive-behavioral** techniques for modifying behavior-and they teach batterers to use "time-outs" (a behavioral technique for 'controlling emotional outbursts). Longer-term programs may progress through the feminist and cognitive models in stages, and some even progress to a psychotherapeutic group process model for aftercare. These programs have a brief initial phase using a feminist educational model to tackle denial of responsibility, a longer second phase teaching cognitive-behavioral techniques for skill-building, and a third phase delving into individual psychological issues in an unstructured format for those men identified as having psychological problems contributing to battering. (See chapter 3, "Pioneers in Batterer Intervention: Program Models," for a detailed description of various program models.) Other programs blend treatment modalities and approaches by combining individual, group, and couples treatment sequentially over an extended period of two to three years.

Programs may also use different models or materials to accommodate the special needs of specific types of batterers,

most commonly substance abusers, African Americans, Asians, Latinos, recent immigrants, female offenders, gay and lesbian batterers, or batterers with poor literacy skills. (See chapter 4, "Current Trends in Batterer Intervention," for a discussion of culturally specific interventions.)

Some practitioners may resist incorporating consideration of individual psychology and cultural differences in interventions because they are concerned that the individual approach will eclipse consideration of the sociological factors emphasized by the prevailing feminist model. However, the critical issue from a criminal justice perspective is simply "what works"; if mixed-model interventions that incorporate psychotherapeutic elements or cultural competence are shown to be more effective in retaining and engaging batterers in treatment, questions of theory are likely to become secondary.

Discussions such as these are rapidly being translated into experiments in practice. Chapter 4, "Current Trends in Batterer Intervention," discusses a range of innovations in batterer treatment that attempt to link individual characteristics of batterers to specific interventions or combinations of interventions in order to increase program retention and effectiveness.

## Endnotes

1. Rosenbaum, A. and R.D. Maiuro, "Eclectic Approaches in Working With Men Who Batter," in **Treating Men Who Batter: Theory, Practice, and Programs**, ed. P.L. Caesar and K.L. Hamberger, New York: Springer, 1989: 65-195.
2. Mary Russell, for example, justifies her use of the expression "wife assault" on the grounds that "domestic violence" and "family violence" ignore the "male to female direction" of most violence between partners. See Russell, M., "Wife Assault Theory, Research, and Treatment: A Literature Review," **Journal of Family Violence**, 3 (3) (1988): 193-208.
3. Schechter, S., **Women and Male Violence: The Visions and Struggles of the Battered Women's Movement**, Boston: South End Press, 1982.
4. Pence, E. and M. Paymar, **Education Groups for Men Who Batter: The Duluth Model**, New York: Springer, 1993.

5. In support of the point that women may remain with men who abuse them because of economic dependence, Ida Johnson found in a study of 426 battered women leaving a Central Florida battered women's shelter that a woman was more likely to return home if the batterer had a high income and the woman was unemployed; if she had an independent income and his income was insufficient to support a family, the woman was unlikely to return home. Johnson, I. M., "Economic, Situational, and Psychological Correlates of the Decision-making Process of Battered Women," *Families in Society: The Journal of Contemporary Human Services*, (March 1992): 168-176.
6. There is disagreement over **whether** batterers actually believe that women are incompetent or **whether** promoting that notion merely serves their needs to control their wives in order to restrict their activities. Rusbult and Martz, in a study of women leaving a domestic violence shelter in Lexington, Kentucky, found that the strongest predictor of whether women would return to the batterer was whether they had a driver's license and access to a car. Rusbult, C.E. and J. M. Martz, "Remaining in an Abusive Relationship: An Investment Model Analysis of Nonvoluntary Dependence," *Personality and Social Psychology Bulletin*, 21 (1995): 558-571.
7. O'Sullivan, C. and B. Birns, *Contested Custody Cases When Violent Marriages End*, Paper presented at the First National Conference on Children Exposed to Family Violence, Austin, Texas, June 1996.
8. Browne, K., D.G. Saunders, and K.M. Staecker, "Process-Psychodynamic Groups for Men Who Batter: Description of a Brief Treatment Model," University of Michigan, January 26, 1996.
9. Gondolf, E. W. and J. Hanneken, "The Gender Warrior: Reformed Batterers on Abuse, Treatment, and Change," *Journal of Family Violence*, 2 (2) (1987): 177-191.
10. Gondolf and Hanneken, "The Gender Warrior." The measure is Bern's Sex Role Inventory.
11. Browne, Saunders, and Staecker, "Process-Psychodynamic Groups for Men Who Batter."
12. Dutton, D., "Patriarchy and Wife Assault: The Ecological Fallacy," *Violence and Victims*, 9 (2) (1994): 167-182.
13. Harrell, A., "Evaluation of Court Ordered Treatment for Domestic Violence Offenders," Final Report, Washington, DC: The Urban Institute, 1991.
14. A 1990 evaluation of the Duluth Domestic Abuse Intervention Project (DAIP) found that program participation had no impact on recidivism. Shepard, M., "Predicting Batterer Recidivism Five Years After Community Intervention," Report, Duluth, Minnesota, 1990.
15. Giles-Sims, J., *Wife-battering: A Systems Theory Approach*, New York: Guilford, 1983.
16. While it is true that many victims whose services want to maintain the relationship while eliminating the abuse, and that most programs report that 30 to 40 percent of the men in treatment are separated, no long-term data show what percent of relationships in which there has been battery last. See Sirles, E.A., S. Lipchik, and K. Kowalski, "A Consumer's Perspective on Domestic Violence Interventions," *Journal of Family Violence*, 8 (3) (1993): 267.
17. Bowker, L., *Ending the Violence: A Guidebook Based on the Experience of 1,000 Battered Wives*, Holmes Beach, FL: Learning Publications, 1986.
18. Russell, "Wife Assault Theory."
19. Specific disorders that have been found in batterers are post-traumatic stress disorder (probably due to childhood trauma), depression, low self-esteem, and personality disorders. Personality disorders usually mentioned by therapists who work with batterers are antisocial personality disorder, narcissism, and borderline personality disorder. In addition, passive-aggression, paranoia, obsessive-compulsive disorder, and intermittent explosive disorder have been said to foster aggression. A psychotherapeutic reference describes the personality disorders as follows: People with antisocial personality disorder are irresponsible, irritable, and aggressive; they are not sadistic but are reckless and have no remorse; they are unable to maintain friendships or romantic relationships. Narcissists are hypersensitive but lack empathy; they have difficulty with relationships because they expect others to meet their special needs. Borderline personalities are characterized by instability of identity, self-image, and relationships; they want to be alone but fear abandonment; they are often moody and

- depressed and, in severe cases, self-destructive and suicidal. Reid, W.H. and M.G. Weise, **The DSM-III-R Training Guide**, New York: Brunner/Mazel, 1989. See also Dutton, D., "Trauma Symptoms and PTSD-like Profiles in Perpetrators of Intimate Abuse," **Journal of Traumatic Stress**, 8 (2)(1995): 299-316; and Maiuro, R., T.S. Calm, P.P. Vitaliano, B.C. Wagner, and J.B. Zegree, "Anger, Hostility, and Depression in Domestically Violent Versus Generally Assaultive and Nonviolent Control Subjects," **Journal of Consulting and Clinical Psychology**, 56 (1) (1988): 17-23.
20. Browne, Saunders, and Straecker, "Process-Psychodynamic Groups for Men Who Batter."
  21. See Dutton, "Patriarchy and Wife Assault."
  22. Adams, D., "Treatment Models for Men Who Batter: A Profeminist Analysis," in **Feminist Perspectives on Wife Abuse**, ed. K. Yllo and M. Bograd, Newbury Park, CA: Sage Publications, 1988: 176-199.
  23. Adams, "Treatment Models for Men Who Batter," 176-177.
  24. Hamberger, K.L. and J. E. Hastings, "Recidivism Following Spouse Abuse Abatement Counseling: Treatment Program Implications," **Violence and Victims**, 5 (3) (1990): 160.
  25. Information provided by Roland Maiuro.
  26. Hamberger, K.L. and J. E. Hastings, "Court-Mandated Treatment of Men Who Assault Their Partner: Issues, Controversies, and Outcomes," in **Legal Responses to Wife Assault**, ed. Z. Hilton, Newbury Park, CA: Sage Publications, 1993: 188-229.
  27. Tolman, R. M. and D. G. Saunders, "The Case for the Cautious Use of Anger Control With Men Who Batter," **Response**, 11 (2) (1988): 15-20.
  28. Tolman and Saunders articulate this concern, while accepting anger management as part of a cognitive-behavioral intervention: "The use of anger control techniques with batterers is problematic when battering is framed exclusively as an anger problem, when the issues of dominance and control of women by men are ignored in treatment, and when practitioners fail to address societal reinforcements for battering." Tolman and Saunders, "The Case for the Cautious Use of Anger Control With Men Who Batter," 19. See also Ptacek, J., "The Clinical Literature on Men Who Batter, A Review and Critiques," in **Family Abuse and Its Consequences: New Directions in Research**, ed. B.T. Hotaling, D. Finkelhor, J.T. Kirkpatrick, and M.A. Straus, Newbury Park, CA: Sage Publications, 1986: 149-162.
  29. Dutton, D., **The Domestic Assault of Women: Psychological and Criminal Justice Perspectives** (revised), Vancouver: University of British Columbia, 1995.
  30. Two studies showing a recurrence of violence among program participants who said they used anger management to reduce their violence are: Gondolf, E., "Men Who Batter: How They Stop Their Abuse," Paper presented at the Second National Conference for Family Violence Researchers, Durham, NC, 1984; and Kelso, D. and L. Personette, **Domestic Violence and Treatment Services for Victims and Abusers**, Anchorage: Altam, 1985.
  31. Daniel O'Leary's studies comparing single-sex group and couples-group interventions were unable to retain couples when the batterer had a history of severe violence. Rosenbaum, A. and K. D. O'Leary, "The Treatment of Marital Violence," in **Clinical Handbook of Marital Therapy**, ed. N.S. Jacobsen and AS. Gurman, New York: Guilford, 1986. Gondolf studied 12 men who had been through a men's group program and were deemed to be fully reformed (versus 38 who were not). Several of these highly motivated men had sought professional help before coming to the batterer program but they had found no improvement after individual or couples therapy. According to their self-reports, the batterer group they subsequently attended gave them what they needed to stop battering. Gondolf and Hanneken, "The Gender Warrior."
  32. Edelson, J. L. and M. Syers, "Relative Effectiveness of Group Treatments for Men Who Batter," **Social Work Research and Abstracts**, (June 1990): 10-17.
  33. According to social learning theory, a retaliatory attack should decrease future abuse. However, two national surveys found that when women resist violently, the



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batterer's violence usually increases in severity. This result is consistent with the feminist view that the intent of physical abuse is to punish resistance and disobedience. Bowker, L., *Ending the Violence: A Guidebook Based on the Experience of 1,000 Battered Wives*, Holmes Beach, FL: Learning Publications, 1986; Feld, S. L. and M.A. Straus, "Escalation and **Desistance** From Wife Assault in Marriage," in *Physical Violence in American Families*, ed. M.A. Straus, and R.J. Gelles, New Brunswick, NJ: Transaction, 1990: 489-505.

34. Edelson and Syers, 'Relative Effectiveness of Group Treatments for Men Who Batter.' This article reports an experiment in which all comers to a program were

assigned to a brief or intense intervention and to one of three models: the Duluth "educational" model, a **self-**help group, and a combined group process-educational model. The results showed no difference between the brief and intense programs, except for the few men of color who were less likely to recidivate if they completed the long program; the structured feminist educational model was found to be most effective.

35. Gondolf, E., "Multi-Site Evaluation of Batterer Intervention Systems: A Summary of Preliminary Findings," Working Paper, Mid-Atlantic Addiction Training Institute, October 24, 1996.

## I. INTRODUCTION

The **Florida** Department of Corrections, Office of **Certification** and Monitoring is responsible for **certifying** and monitoring assessors and batterers' intervention programs. Program approval will include the Department's analysis of each assessor's and program's ability to meet the minimum standards before they are able to receive referrals **from** the court **as** a certified provider or referrals as a certified assessor.

Florida Statutes state that the purpose of the **certification** of batterers' intervention programs is "to uniformly and systematically standardize programs **to hold** those who perpetrate acts of domestic violence responsible for those acts and to ensure safety for the victims of domestic violence." The Department of Corrections' second set of standards, based upon the minimum certification standards developed by the Commission on Minimum Standards for Batterers' Intervention Programs (December 1994), suggests a gender-based classification **regarding** appropriateness for programs among batterers. These standards clearly and substantially relate to the important governmental purposes of **protecting** the public, standardizing programs, and monitoring programs for safety. Developing certification standards for male batterers' programs has set a uniform and systematic standard 'for the development of **certification** standards for programs designed to meet the needs of other types of perpetrators such as females and juveniles.

The Florida Department of Law Enforcement reports that approximately '75% of those who perpetrate domestic violence are male. For these standards to effectively meet the public safety needs of this state, the Department, based on the recommendations of the Commission and the statute, found it reasonable **and** necessary to 'focus its initial certification efforts on **programs** designed for male perpetrators of domestic violence. **The** Department and the Commission recognize that there are other areas, such as female and juvenile perpetrators, who also require programming. It is anticipated that certification standards for those groups will **also** be developed.

## BACKGROUND

In September 1993, the late Governor **Lawton Chiles** created Florida's first statewide domestic violence task force. The executive order creating that task force charged it 'with the responsibility of assessing and evaluating Florida's response to the epidemic of domestic violence. In its first report, issued January 1994, the task force recommended that there be created a Commission on Minimum Standards for Batterers' Treatment to propose criteria that would govern the various batterers' programs operating around the state. The Legislature responded and created the Commission, which the Governor appointed in August 1994. The Commission began its work immediately, relying heavily on work done in other parts of **the** country and work begun in Florida. Many of these jurisdictions had developed and implemented minimum standards for batterers' intervention programs.

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FLORIDA LEGISLATURE - REGULAR SESSION 1999  
LEGISLATIVE INFORMATION DIVISION

PAGE 1

- H 0447 GENERAL BILL by Lynn; (CO-SPONSORS) Chestnut; Waters; Bullard; Jacobs; Sobel; Dennis; Fasano; Greenstein; Heyman; Betancourt (Compare CS/S 1176)  
Domestic Violence; provides for instruction for circuit & county judges in domestic violence; provides for comprehensive domestic violence education plan & tools; requires council to develop educational programs on domestic violence; prohibits court from awarding visitation rights to parent who has been convicted of capital felony or 1st-degree felony that involved domestic violence, etc. Amends 25.385, 39.902, 44.102, 61.13, 943.171.  
Effective Date: 07/01/1999.  
01/26/99 HOUSE Prefiled  
02/03/99 HOUSE Referred to Judiciary (CJC); Family Law & Children (CJC); Criminal Justice Appropriations (FRC)  
03/02/99 HOUSE Introduced, referred to Judiciary (CJC); Family Law & Children (CJC); Criminal Justice Appropriations (FRC) -HJ 00047  
03/16/99 HOUSE On Committee agenda-- Judiciary (CJC), 03/18/99, 1:00 pm, Morris Hall  
03/18/99 HOUSE Comm. Action: Unanimously Favorable with 2 amendment(s) by Judiciary (CJC) -HJ 00385  
03/22/99 HOUSE Now in Family Law & Children (CJC) -HJ 00385  
04/01/99 HOUSE On Committee agenda-- Family Law & Children (CJC), 04/05/99, 3:30 pm, 317C  
04/05/99 HOUSE Comm. Action: Favorable with 2 amendment(s) by Family Law & Children (CJC) -HJ 00514  
04/06/99 HOUSE Now in Criminal Justice Appropriations (FRC) -HJ 00514  
04/30/99 HOUSE Died in Committee on Criminal Justice Appropriations (FRC)
- S 1176 GENERAL BILL/CS by Children and Families; Silver (Compare H 0447)  
Domestic Violence; provides for instruction for circuit & county judges in domestic violence; provides for comprehensive domestic violence education plan & tools; prohibits court from awarding visitation rights to parent who has been convicted of capital felony or first-degree felony that involved domestic violence; authorizes court to enter order for protection of minor children against such violence, etc. Amends 25.385, 61.13, 741.28,.30, 784.046. Effective Date: 07/01/1999.  
02/11/99 SENATE Prefiled  
03/02/99 SENATE Introduced, referred to Judiciary; Children and Families; Fiscal Policy -SJ 00080  
03/08/99 SENATE On Committee agenda-- Judiciary, 03/11/99, 10:45 am, Room-110S --Temporarily postponed  
03/12/99 SENATE On Committee agenda-- Judiciary, 03/17/99, 3:30 pm, Room-110S  
03/17/99 SENATE Comm. Action: Favorable by Judiciary -SJ 00308  
03/18/99 SENATE Now in Children and Families -SJ 00308  
04/01/99 SENATE On Committee agenda-- Children and Families, 04/07/99, 2:00 pm, Room-37S  
04/07/99 SENATE Comm. Action: CS by Children and Families -SJ 00513; CS read first time on 04/13/99 -SJ 00514  
04/09/99 SENATE Now in Fiscal Policy -SJ 00513  
04/30/99 SENATE Died in Committee on Fiscal Policy

*Appendix 3; page 1 of 15*

By Representative Lynn

A bill to be entitled

An act relating to domestic violence; **amending**  
a. 25.385, F.S.; providing for instruction for  
circuit and county judges in domestic **violence**;  
**redefining** the term "domestic violence" for  
purposes of training provided by the Florida  
Court Educational Council; **defining** "judge who  
has responsibility for cases of domestic  
**violence**"; revising duties of the council;  
providing for a **comprehensive** domestic violence  
**education** plan and tools; requiring the council  
to **develop educational** programs on domestic  
**violence**; providing the programs may be a part  
of other programs **offered** by the Office of  
State Courts Administrator; providing for  
**maintenance** by the office of certain records of  
judicial **attendance** of such programs; providing  
for public **inspection** of the records; providing  
for inclusion of certain **information** with  
respect to the program in the annual report by  
the council to the Governor and Legislature;  
**amending** s. 39.902, F.S.; conforming certain  
definitions; amending s. 44.102, F.S.;  
providing for **nonreferral** of a case to  
court-ordered family **mediation** upon the court's  
own motion, under **specified** circumstances;  
amending s. **61.13**, F.S.; prohibiting the court  
from awarding visitation rights to a parent who  
has been **convicted** of a capital **felony** or a  
first-degree **felony** that involved **domestic**  
**violence**; providing certain exceptions;

amending ss. 39.902 and 943.171, F.S.;  
conforming certain definitions; requiring that  
the Supreme Court through The Florida Bar  
annually report to the Governor and Legislature  
on its courses of continuing legal education on  
domestic violence; providing an **effective** data.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 25.385, Florida Statutes, is  
amended to read:

25.335 Instruction for circuit and county court judges  
in domestic violence Standards for instruction of circuit and  
county court judges in handling domestic violence cases.--

(1) It is crucial to the fair and efficient  
administration of justice in this state that all members of  
the judiciary be educated on domestic violence. Therefore, the  
Florida Court Educational Council shall establish standards  
for domestic violence instruction and a comprehensive  
education plan to ensure that each circuit and county court  
judge who has responsibility for cases of domestic violence  
has the opportunity to attend educational programs on a  
periodic, regular, and timely basis of circuit and county  
court judges who have responsibility for domestic violence  
cases; and the council shall provide such instruction on a  
periodic and timely basis.

(2) As used in this section:

(a) The term "domestic violence" has the same meaning  
as provided in s. 741.28 means any assault; battery; sexual  
assault; sexual battery; or any criminal offense resulting in  
physical injury or death of one family or household member by

mother; who is or was residing in the same single dwelling  
unit.  
(b) A "judge who hears cases of  
domestic violence." includes, but is not limited to, a circuit  
or county judge who hears domestic violence-related cases, or  
cases where domestic violence may be present, on a temporary,  
part-time, or emergency basis, in any division of the court,  
including, but not limited to, family, civil, criminal,  
probate, or juvenile divisions. Family or household member  
means spouse; former spouse; persons related by blood or  
marriage; persons who are presently residing together, as if a  
family; or who have resided together in the past, as if a  
family; and persons who have a child in common regardless of  
whether they have been married or have resided together at any  
time.

(3)(a) The Florida Court Education Council shall  
develop and make available educational tools for instruction  
in domestic violence, which may include, but are not limited  
to, bench guides, video training tapes, and any other packaged  
or presented materials the council deems appropriate, so that  
judges can obtain information timely and efficiently before  
hearing cases where domestic violence may be involved.

(b) The Florida Court Education Council shall develop  
educational programs on domestic violence, which must include  
training in: laws governing domestic violence; prevalence of  
domestic violence; characteristics and impacts of domestic  
violence on children or other dependants; custody and  
visitation issues; issues of whether, and under what  
conditions, mediation is appropriate; information on community  
resources and referral services; and any other information  
that the council deems appropriate. The educational programs

Appendix 3; page 3 of 15

1 ~~may be a part of other programs provided by the Office of the~~  
2 ~~State Courts Administrator.~~  
3 \$41 The Office of State Courts Administrator shall  
4 maintain records including the date and curriculum of the  
5 programs, of all judges who attend educational programs on  
6 domestic violence, and of the current assignment of each  
7 attorney and on request shall make such records available for  
8 public inspection.  
9 (5) The Florida Court Education Council shall provide  
10 as part of its annual report to the Governor, the President of  
11 the Senate, and the Speaker of the House of Representatives, a  
12 description of the types of educational programs on domestic  
13 violence offered, course materials, learning objectives, the  
14 references and the names and credentials of instructors, the  
15 number of judges listed by circuit and county who attend the  
16 educational programs, and any other information that is  
17 relevant to a full description of the educational programs on  
18 domestic violence.  
19 Section 2. Subsections (1) and (3) of section 39.902,  
20 Florida Statutes, 1998 Supplement, are amended to read:  
21 39.902 Definitions.--As used in this part, the term:  
22 (1) "Domestic violence" has the same meaning as  
23 provided in s. 741.28 means any assault; battery; sexual  
24 assault; sexual battery; or any criminal offense resulting in  
25 physical injury or death of one family or household member by  
26 another who is or was residing in the same single dwelling  
27 unit.  
28 (3) "Family or household member" has the same meaning  
29 as provided in s. 741.28 means spouses; former spouses; adults  
30 related by blood or marriage; persons who are presently  
31 residing together as if a family or who have resided together

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CODING: Deletions are stricken; additions are underlined.

1 ~~in the past as if a family; and persons who have a child in~~  
2 ~~common regardless of whether they have been married or have~~  
3 ~~resided together at my tie.~~

4 Section 3. Paragraph (b) of subsection (2) of section  
5 44.102, Florida Statutes, is amended to read:

6 44.102 Court-ordered mediation.--

7 (2) A court, under rules adopted by the Supreme Court:

8 (b) In circuits in which a family mediation program  
9 has been established and upon a court finding of a dispute,  
10 shall refer to mediation all or part of custody, visitation,  
11 or other parental responsibility issues as defined in s.

12 61.13. Upon motion or request of a party, or upon the court's  
13 own motion, a court shall not refer any case to mediation if  
14 it finds there has been a history of domestic violence that  
15 would compromise the mediation process.

16 Section 4. Paragraph (b) of subsection (2) of section  
17 61.13, Florida Statutes, 1998 Supplement, is amended to read:

18 61.13 Custody and support of children; visitation  
19 rights; power of court in making orders.--

20 (2)

21 (b)1. The court shall determine all matters relating  
22 to custody of each minor child of the parties in accordance  
23 with the best interests of the child and in accordance with  
24 the Uniform Child Custody Jurisdiction Act. It is the public  
25 policy of this state to assure that each minor child has  
26 frequent and continuing contact with both parents after the  
27 parents separate or the marriage of the parties is dissolved  
28 and to encourage parents to share the rights and  
29 responsibilities, and joys, of childrearing. After considering  
30 all relevant facts, the father of the child shall be given the  
31 same consideration as the mother in determining the primary

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Appendix 3; page 4 of 15

1 residence of a child irrespective of the age or sex of the  
 2 child.

3 2. The court shall order that the parental  
 4 responsibility for a minor child be shared by both parents  
 5 unless the court finds that shared parental responsibility  
 6 would be detrimental to the child. Evidence that a parent has  
 7 been convicted of a felony of the third degree or higher  
 8 involving domestic violence, as defined in s. 74f.28 and  
 9 chapter 775, or meets the criteria of s. 39.806(1)(d), creates  
 10 a rebuttable presumption of detriment to the child. If the  
 11 presumption is not rebutted, shared parental responsibility,  
 12 including visitation, residence of the child, and decisions  
 13 made regarding the child, may not be granted to the convicted  
 14 parent. However, the convicted parent is not relieved of any  
 15 obligation to provide financial support. If the court  
 16 determines that shared parental responsibility would be  
 17 detrimental to the child, it may order sole parental  
 18 responsibility and make such arrangements for visitation as  
 19 will best protect the child or abused spouse from further  
 20 harm. Whether or not there is a conviction of any offense of  
 21 domestic violence or child abuse or the existence of an  
 22 injunction for protection against domestic violence, the court  
 23 shall consider evidence of domestic violence or child abuse as  
 24 evidence of detriment to the child. If the parent of the child  
 25 is convicted of a capital felony or a felony of the first  
 26 degree which involved domestic violence against another parent  
 27 of the child, the court may not award visitation rights to the  
 28 convicted parent unless the child is over 16 years of age and  
 29 agrees to the order of visitation; or unless the convicted  
 30 parent acted in self-defense and is granted executive clemency  
 31 or a petition for such clemency is pending on the parent's.

1 behalf: or unless the court finds that visitation is in the  
 2 manifest best interests of the child.

3 a. In ordering shared parental responsibility, the  
 4 court may consider the expressed desires of the parents and  
 5 may grant to one party the ultimate responsibility over  
 6 specific aspects of the child's welfare or may divide those  
 7 responsibilities between the parties based on the best  
 8 interests of the child. Areas of responsibility may include  
 9 primary residence, education, medical and dental care, and any  
 10 other responsibilities that the court finds unique to a  
 11 particular family.

12 b. The court shall order "sole parental  
 13 responsibility, with or without visitation rights, to the  
 14 other parent when it is in the best interests of" the minor  
 15 child.

16 c. The court may award the grandparents visitation  
 17 rights with a minor child if it is in the child's best  
 18 interest. Grandparents have legal standing to seek judicial  
 19 enforcement of such an award. This section does not require  
 20 that grandparents be made parties or given notice of  
 21 dissolution pleadings or proceedings, nor do grandparents have  
 22 legal standing as "contestants" as defined in s. 61.1306. A  
 23 court may not order that a child be kept within the State or  
 24 jurisdiction of the court solely for the purpose of permitting  
 25 visitation by the grandparents.

26 3. Access to records and information pertaining to a  
 27 minor child, including, but not limited to, medical, dental,  
 28 and school records, may not be denied to a parent because the  
 29 parent is not the child's primary residential parent.

30 Section 5. Subsection (2) of section 943.171, Florida  
 31 Statutes, is amended to read:

Appendix B, page 5 of 15

943.171 **Basic** skills training in handling domestic violence cases.--

(2) As used in this section, the term:

(a) "Domestic violence" has the same meaning as provided in s. 741.28 means-any-assault;-battery;-sexual assault;-sexual-battery;-or-any-criminal-offense-resulting-in the-physical-injury-or-death-of-one-family-or-household-member by-another-who-is-or-was-residing-in-the-same-single-dwelling unit.

(b) "Family or household member" has the same meaning as provided in s. 741.28 means-spouse;-former-spouse;-persons related-by-blood-or-marriage;-persons-who-are-presently residing-together;-as-if-a-family;-or-who-have-resided together-in-the-past;-as-if-a-family;-and-persons-who-have-a child-in-common-regardless-of-whether-they-have-been-married or-have-resided-together-at-any-time.

Section 6. The Supreme Court, through The Florida Bar, shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the courses which in their brochure outline contain reference to domestic violence and which The Florida Bar approves for continuing legal education credits for members of The Florida Bar. The report must be submitted annually, beginning September 1, 1996. For courses offered or sponsored by The Florida Bar, the report must include course materials: references and names of instructors; a description of courses offered; the section or committee of The Florida Bar which sponsors the course; the number of attorneys who attend such courses, if available; and any other information that describes or assesses the continuing legal education courses on domestic violence which are offered by The Florida Bar.

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section 7. This act shall take effect July 1, 1999.

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#### HOUSE SUMMARY

Provides for instruction for circuit and county judges in domestic violence cases. Redefines the term "domestic violence" for purposes of training provided by the Florida Court Educational Council and revises duties of the council. Provides for a comprehensive domestic violence education plan and tools and requires the council to develop educational programs on domestic violence. Provides for maintenance by the Office of the State Courts Administrator of records of judicial attendance of such programs. Requires inclusion of specified information with respect to the programs in the annual report by the council to the Governor and Legislature. Prohibits a court from awarding visitation rights to a parent who has been convicted of a capital felony or a first-degree felony that involved domestic violence. Requires the Supreme Court to annually report to the Governor and Legislature on its courses of continuing legal education on domestic violence. See bill for details.

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Appendix 3; page 6 of 15



By the Committee on Children and Families; and Senator Silver

300-2050A-99

1 A bill to be entitled  
2 An act relating to domestic violence; amending  
3 s. 25.385, P.S.; providing for instruction for  
4 circuit and county judges in domestic violence;  
5 redefining the term 'domestic violence' for  
6 purposes of training provided by the Florida  
7 Court Educational Council; defining \*judge who  
a has responsibility for cases of domestic  
9 violence'; revising duties of the council;  
10 providing for a comprehensive domestic violence  
11 education plan and tools; requiring the council  
12 to develop educational programs on domestic  
13 violence; providing the programs may be a part  
14 of other programs offered by the Office of  
15 State Courts Administrator; providing for  
16 maintenance by the office of certain records of  
17 judicial attendance of such programs; providing  
18 for public inspection of the records; providing  
19 for inclusion of certain information with  
20 respect to the programs in the annual report by  
21 the council to the Governor and Legislature;  
22 amending s. 61.13, P.S.; prohibiting the court  
23 from awarding visitation rights to a parent who  
24 has been convicted of a capital felony or a  
25 first-degree felony that involved domestic  
26 violence; providing certain exceptions;  
27 requiring that the Supreme Court through The  
28 Florida Bar annually report to the Governor and  
29 Legislature on its course\* of continuing legal  
30 education on domestic violence; amending s.  
31 741.28, P.S.; redefining the term 'domestic

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Florida Senate • 1999  
300-2050A-99

CS for SB 1176

1 violence' to delete the requirement that the  
2 victim and alleged perpetrator reside or have  
3 formerly resided in the same dwelling unit;  
4 amending s. 741.30, P.S.; revising the degree  
5 of danger required for issuance of an  
6 injunction for protection against domestic  
7 violence; providing for evidence to be  
8 presented at a hearing for which both parties  
9 have received notice; authorizing the court to  
10 enter an order for the protection of minor  
11 children against domestic violence; revising  
12 notice requirements for a respondent who does  
13 not attend the hearing on a temporary  
14 injunction; amending s. 784.046, P.S.;  
15 authorizing the court to extend an injunction  
16 during a continuance; providing an effective  
17 date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

20  
21 Section 1. Section 25.385, Florida Statutes, is  
22 amended to read:  
23 25.385 Instruction for circuit and county court judges  
24 in domestic violence. Standards for instruction of circuit and  
25 county court judges in handling domestic violence.--  
26 (1) It is crucial to the fair and efficient  
27 administration of justice in this state that all members of  
28 the judiciary be educated on domestic violence. Therefore, the  
29 Florida Court Educational Council shall establish standards  
30 for domestic violence instruction and a comprehensive  
31 education plan to ensure that each circuit and county court

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Appendix 3; page 7 of 15

1 judge who has responsibility for cases of domestic violence  
2 has the opportunity to attend educational programs on a  
3 periodic, regular, and timely basis of circuit and county  
4 court judges who have responsibility for domestic violence  
5 cases, and the council shall provide such instruction on a  
6 periodic and timely basis.  
7 (2) As used in this section:  
8 (a) The term 'domestic violence' has the same meaning  
9 as provided in S. 741.28 means any ass. it, battery, sexual  
10 y, or any criminal offense resulting in  
11 physical injury or death of one family or household member by  
12 another, who is or was residing in the same single dwelling  
13 unit.  
14 (b) A 'judge who has responsibility for cases of  
15 domestic violence' includes, but is not limited to, a circuit  
16 or county judge who hears domestic violence-related cases, or  
17 cases where domestic violence may be present, on a temporary,  
18 part-time, or emergency basis, in any division of the court,  
19 including, but not limited to, family, civil, criminal,  
20 probate, or juvenile divisions Family or household member  
21 , spouse, persons related by blood or  
22 marriage, persons who are presently residing together, as if a  
23 family, or who have resided together in the past, as if a  
24 family, and persons who have a child in common regardless of  
25 whether they have been married or have resided together at any  
26 time.  
27 (3) (a) The Florida Court Education Council shall  
28 develop and make available educational tools for instruction  
29 in domestic violence, which may include, but are not limited  
30 to, bench guides, video training tapes, and any other packaged  
31 or presented materials the council deems appropriate, so that

1 judges can obtain information timely and efficiently before  
2 hearing cases where domestic violence may be involved.  
3 (b) The Florida Court Education Council shall develop  
4 educational programs on domestic violence, which must include  
5 training in: laws governing domestic violence; prevalence of  
6 domestic violence; characteristics and impacts of domestic  
7 violence on children or other dependents; custody and  
8 visitation issues; issues of whether, and under what  
9 conditions, mediation is appropriate; information on community  
10 resources and referral services; and any other information  
11 that the council deems appropriate. The educational programs  
12 may be a part of other programs provided by the Office of the  
13 State Courts Administrator.  
14 (4) The Office of State Courts Administrator shall  
15 maintain records, including the date and curriculum of the  
16 programs, of all judges who attend educational programs on  
17 domestic violence, and of the current assignment of each  
18 attendee, and on request shall make such records available for  
19 public inspection.  
20 (5) The Florida Court Education Council shall provide,  
21 as part of its annual report to the Governor, the President of  
22 the Senate, and the Speaker of the House of Representatives, a  
23 description of the types of educational programs on domestic  
24 violence offered, course materials, learning objectives, the  
25 references and the names and credentials of instructors, the  
26 number of judges listed by circuit and county who attend the  
27 educational programs, and any other information that is  
28 relevant to a full description of the educational program on  
29 domestic violence.  
30 Section 2. Paragraph (b) of subsection (2) of section  
31 61.13, Florida Statutes, 1998 Supplement, is amended to read:

Appendix 3, page 8 of 15

1 61.13 **Custody and support of children; visitation**  
2 rights; power of court in making orders.--  
3 (2)  
4 (b)1. The court shall determine all matters relating  
5 to custody of each minor child of the parties in accordance  
6 with the best interests of the child and in accordance with  
7 the Uniform Child Custody Jurisdiction Act. It is the public  
8 policy of this state to assure that each minor child has  
9 frequent and continuing contact with both parents after the  
10 parents separate or the marriage of the parties is dissolved  
11 and to encourage parents to share the rights and  
12 responsibilities, and joys, of childrearing. After considering  
13 all relevant facts, the father of the child shall be given the  
14 same consideration as the mother in determining the primary  
15 residence of a child irrespective of the age or sex of the  
16 child.  
17 2. The court shall order that the parental  
18 responsibility for a minor child be shared by both parents  
19 unless the court finds that shared parental responsibility  
20 would be detrimental to the child. Evidence that a parent has  
21 been convicted of a felony of the second or third degree or  
22 higher involving domestic violence, as defined in s. 741.28  
23 and chapter 775, or meets the criteria of s. 39.806(1) (d),  
24 creates a rebuttable presumption of detriment to the child. If  
25 the presumption is not rebutted, shared parental  
26 responsibility, including visitation, residence of the child,  
27 and decisions made regarding the child, may not be granted to  
28 the convicted parent. However, the convicted parent is not  
29 relieved of any obligation to provide financial support. If  
30 the court determines that shared parental responsibility would  
31 be detrimental to the child, it may order sole parental

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1 responsibility and make such arrangements for visitation as  
2 will best protect the child or abused spouse from further  
3 harm. Whether or not there is a conviction of any Offense of  
4 domestic violence or child abuse or the existence of an  
5 injunction for protection against domestic violence, the court  
6 shall consider evidence of domestic violence or child abuse as  
7 evidence of detriment to the child. If the parent of the child  
8 is convicted of a capital felony or a felony of the first  
9 degree which involved domestic violence against another parent  
10 of the child, the court may not award visitation rights to the  
11 convicted parent unless the child is over 16 years of age and  
12 agrees to the order of visitation: the convicted parent acted  
13 in self-defense and is granted executive clemency or a  
14 petition for such clemency is pending on the parent's behalf;  
15 or the nonincarcerated parent or legal custodian agrees to the  
16 visitation.  
17 a. In ordering shared parental responsibility, the  
18 court may consider the expressed desires of the parents and  
19 may grant to one party the ultimate responsibility over  
20 specific aspects of the child's welfare or may divide those  
21 responsibilities between the parties based on the best  
22 interests of the child. Areas of responsibility may include  
23 primary residence, education, medical and dental care, and any  
24 other responsibilities that the court finds unique to a  
25 particular family.  
26 b. The court shall order 'sole parental  
27 responsibility. with or without visitation rights, to the  
28 other parent when it is in the best interests of the minor  
29 child.  
30 c. The court may award the grandparents visitation  
31 rights with a minor child if it is in the child's best

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Appendix 3; page 9 of 15

1 interest. Grandparents have legal standing to seek judicial  
2 enforcement of such an award. This section does not require  
3 that grandparents be made parties or given notice of  
4 dissolution pleadings or proceedings, nor do grandparents have  
5 legal standing as "**contestants**" as defined in **s. 61.1306**. A  
6 court may not order that a child be kept within the state or  
7 jurisdiction of the court solely for the purpose of permitting  
8 visitation by the grandparents.

9 3. Access to records and information pertaining to a  
10 minor child, including, but not limited to, medical, dental,  
11 and school records, may not be denied to a parent because the  
12 parent is not the child's primary residential parent.

13 Section 3. The Supreme Court, through The Florida Bar,  
14 shall report to the Governor, the President of the Senate, and  
15 the Speaker of the House of Representatives on the courses  
16 which, in their brochure outline, contain reference to  
17 domestic violence and which The Florida Bar approves for  
18 continuing legal education credits for members of The Florida  
19 Bar. The report must be submitted annually, beginning  
20 September 1, 1999. For courses offered or sponsored by The  
21 Florida Bar, the report must include course materials;  
22 references and names of instructors; a description of courses  
23 offered; the section or committee of The Florida Bar which  
24 sponsors the course; the number of attorneys who attend such  
25 courses, if available; and any other information that  
26 describes or assesses the continuing legal education courses  
27 on domestic violence which are offered by The Florida Bar.

28 Section 4. Section 741.28, Florida Statutes, is  
29 amended to read:

30 741.28 Domestic violence; definitions.--As used in es.  
31 **741.28-741.31, the term:**

7

**CODING:** words **stricken** are deletions; words underlined are additions.

1 (1) 'Domestic violence' means any assault, aggravated  
2 assault, battery, aggravated battery, sexual assault, sexual  
3 battery, stalking, aggravated stalking, kidnapping, false  
4 imprisonment, or any criminal offense resulting in physical  
5 injury or death of one family or household member by another  
6 ~~who is or was residing in the same single dwelling as it.~~

7 (2) 'Family or household member' means spouses, former  
8 spouses, **persons related** by blood or marriage, persons who are  
9 presently residing together as if a family or who have resided  
10 together in the past as if a family, and persons who have a  
11 child in common regardless of whether they have been married  
12 or have resided together at any time.

13 (3) "**Department**" means the Florida Department of **Law**  
14 Enforcement.

15 (4) 'Law enforcement officer' means any person who is  
16 elected, appointed, or employed by any municipality or the  
17 state or any political subdivision thereof who meets the  
18 minimum qualifications established in **s. 943.13** and is  
19 certified as a law enforcement officer under **s. 943.1395**.

20 Section 5. Paragraphs (a) and (g) of subsection (1),  
21 paragraphs (h), (i), and (j) of subsection (3), paragraphs (a)  
22 and (b) of subsection (5), paragraph (a) of subsection (6),  
23 and paragraphs (a) and (c) of subsection (7) of section  
24 741.30, Florida Statutes, 1998 Supplement, are amended to  
25 read:

26 741.30 Domestic violence; injunction; powers and  
27 duties of **court and** clerk; petition: notice and hearing;  
28 temporary injunction; issuance of injunction; statewide  
29 verification system: enforcement.--

30 (1) There is created a cause of action for an  
31 injunction for protection against domestic violence.

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**CODING:** words **stricken** are deletions; words underlined are additions

Appendix 3: page 10 of 15

1 (a) Any person described in paragraph (e), who is the  
2 victim of any act of domestic violence, or has reasonable  
3 cause to believe he or she is in ~~imminent~~ danger of becoming  
4 the victim of any act of domestic violence, has standing in  
5 the circuit court to file a sworn petition for an injunction  
6 for protection against domestic violence.

7 (g) Any person, including an officer of the court, who  
8 offers evidence or recommendations relating to the cause of  
9 action must either present the evidence or recommendations in  
10 writing to the court with copies to each party and their  
11 attorney, or must present the evidence under oath at a hearing  
12 at which all parties were noticed to be are present.

13 (3)

14 (h) Petitioner has suffered or has reasonable cause to  
15 fear ~~at domestic violence~~ because respondent has: .....

16 (i) Petitioner alleges the following additional  
17 specific facts: (mark appropriate sections)

18 . . . Petitioner is the custodian of a minor child or  
19 children whose names and ages are as follows: .....

20 . . . Petitioner needs the exclusive use and possession  
21 of the dwelling that the parties share.

22 . . . Petitioner is unable to obtain safe alternative  
23 housing because: .....<sup>\*\*</sup>.....

24 . . . Petitioner genuinely fears that respondent  
25 imminently will abuse, remove, or hide the minor child or  
26 children from petitioner because: .....

27 .....

28 (j) Petitioner genuinely fears imminent domestic  
29 violence by respondent.

30 (5) (a) When it appears to the court that it is  
31 necessary for the protection of the petitioner, the court may

1 ~~grant a temporary~~ ~~an immediate~~ ~~present danger of domestic~~  
2 ~~violence exists, the court may grant a temporary injunction ex~~  
3 ~~parte, pending a full hearing, and may grant such relief as~~  
4 ~~the court deems proper, including an injunction:~~

5 1. Restraining the respondent from committing any acts  
6 of domestic violence.

7 2. Awarding to the petitioner the temporary exclusive  
a use and possession of the dwelling that the parties share or  
9 excluding the respondent from the residence of the petitioner.

10 3. On the same basis as provided in s. 61.13(2), (3),  
11 (4), and (5), granting to the petitioner temporary custody of  
12 a minor child or children.

13 (b) In a hearing ~~ex~~ parte for the purpose of obtaining  
14 such ~~ex~~ parte temporary injunction, no evidence other than  
15 verified pleadings or affidavits shall be used as evidence,  
16 unless the respondent appears at the hearing or has received  
17 reasonable notice of the hearing. A denial of a petition for  
18 an ~~ex~~ parte injunction shall be by written order noting the  
19 legal grounds for denial. When the only ground for denial is  
20 no appearance of ~~an immediate and present~~ danger of domestic  
21 violence, the court shall set a full hearing on the petition  
22 for injunction with notice at the earliest possible time.  
23 Nothing herein affects a petitioner's right to promptly amend  
24 any petition, or otherwise be heard in person on any petition  
25 consistent with the Florida Rules of Civil Procedure.

26 (6) (a) Upon notice and hearing, the court may grant  
27 such relief as the court deems proper, including an  
28 injunction:

2s 1. Restraining the respondent from committing any acts  
3c of domestic violence.

3l

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1        2. Awarding to the petitioner the ~~exclusive~~ use and  
2 ~~possession~~ of the dwelling that the parties share or excluding  
3 ~~the~~ respondent from the residence of the petitioner.  
4        3. On the same basis as provided in chapter 61,  
5 warding temporary custody of, or temporary visitation rights  
6 ~~with~~ regard to, a minor child or children of the parties.  
7        4. On the same basis as provided in chapter ~~61~~,  
8 ~~establishing temporary~~ support for a minor ~~child~~ or children  
9 ~~or~~ the petitioner.  
10       5. Ordering the respondent to ~~participate~~ in  
11 treatment, intervention, or counseling ~~services~~ to be paid for  
12 by the respondent. When the court orders the respondent to  
13 participate in a batterers' intervention program, the ~~court~~,  
14 or any entity designated by the court, must provide the  
15 respondent with a list of all certified batterers'  
16 intervention programs and all programs which have submitted an  
17 application to the Department of Corrections. to become  
18 certified under ~~S.~~ 741.325, from which the respondent must  
19 choose ~~a~~ program in which to participate. If there are no  
20 certified batterers' intervention programs in the circuit, the  
21 court shall provide a list of acceptable programs from which  
22 the respondent must choose a program in which to participate.  
23        6. Referring a petitioner to a certified domestic  
24 violence center. The court must provide the petitioner with a  
25 list of certified domestic violence centers in the circuit  
26 which the petitioner may contact.  
27        7. Ordering such other relief as the court deems  
28 necessary for the protection of a victim of domestic violence  
29 ~~or minor children~~, including injunctions or directives to law  
30 enforcement agencies, as provided in this section.  
31

1        (7)(a)1. The clerk of the court shall furnish a copy  
2 ~~of~~ the petition, financial affidavit, uniform child custody  
3 ~~jurisdiction~~ act affidavit, if any, notice of hearing, and  
4 ~~temporary~~ injunction, if any, to the sheriff or a law  
5 ~~enforcement~~ agency of the county where the respondent resides  
6 ~~or~~ can be found, ~~who~~ shall serve it upon the respondent as  
7 ~~soon~~ thereafter as possible on any day of the week and at any  
8 ~~time~~ of the day ~~or~~ night. The clerk of the court shall be  
9 responsible for furnishing to the sheriff such information on  
10 ~~the~~ respondent's physical description and location as is  
11 required by the department to comply with the verification  
12 ~~procedures~~ set forth in ~~this~~ section. Notwithstanding any  
13 ~~other~~ provision of law to the contrary, the chief judge of  
14 ~~each~~ circuit, in consultation with the appropriate sheriff,  
15 may authorize a ~~law~~ enforcement agency within the jurisdiction  
16 to effect service. A law enforcement agency serving  
17 injunctions pursuant to this section shall use service and  
18 verification procedures consistent with those of the sheriff.  
19        2. When an injunction is issued, if the petitioner  
20 requests the assistance of a law enforcement agency, the court  
21 ~~may~~ order that an officer from the appropriate law enforcement  
22 agency accompany the petitioner and assist in placing the  
23 petitioner in possession of the dwelling ~~or~~ residence, or  
24 otherwise assist in the execution or service of the  
25 injunction. A law enforcement officer shall accept a copy of  
26 an injunction for protection against domestic violence,  
27 certified by the clerk ~~of~~ the court, from the petitioner and  
28 immediately serve it upon a respondent who has been located  
29 but not yet served.  
30        3. All orders ~~issued~~, changed, continued, extended, or  
31 vacated subsequent to the original service of documents

1 enumerated under subparagraph 1., shall be certified by the  
2 clerk of the court and delivered to the parties at the time of  
3 the entry of the order. The parties may acknowledge receipt  
4 of such order in writing on the face of the original order.  
5 In the event a party fails or refuses to acknowledge the  
6 receipt of a certified copy of an order, the clerk shall note  
7 on the original order that service was effected. If delivery  
8 at the hearing is not possible, the clerk shall mail certified  
9 copies of the order to the parties at the last known address  
10 of each party. Service by mail is complete upon mailing.  
11 When an order is served pursuant to this subsection, the clerk  
12 shall prepare a written certification to be placed in the  
13 court file specifying the time, date, and method of service  
14 and shall notify the sheriff.  
15  
16 If the respondent has been served previously with the  
17 temporary injunction and has failed to appear at the initial  
18 hearing on the temporary injunction, the court may extend the  
19 relief ordered in the temporary injunction to the final  
20 judgment on injunction for protection against domestic  
21 violence if:  
22 a. The respondent received personal service of process  
23 of the notice of the hearing for the injunction;  
24 b. The respondent had the opportunity to be heard at  
25 the hearing for the injunction; and  
26 c. The respondent was informed in the notice of the  
27 hearing for the injunction that the court may extend the  
28 relief granted in the temporary injunction to the final  
29 judgment on injunction against domestic violence even if the  
30 respondent fails to appear at the noticed hearing and fails to  
31 exercise his or her right to be heard at the hearing.

1  
2 However, the respondent must receive personal service of  
3 process of notice if the court grants any additional relief  
4 ~~any subsequent petition for injunction seeking an extension of~~  
5 ~~time may be served on the respondent by the clerk of the court~~  
6 ~~by certified mail in lieu of personal service by a law~~  
7 ~~enforcement officer.~~  
a (c)1. Within 24 hours after the court issues an  
3 injunction for protection against domestic violence or  
10 changes, continues, extends, or vacates an injunction for  
11 protection against domestic violence, the clerk of the court  
12 must forward a certified copy of the injunction ~~for service~~ to  
13 the sheriff with jurisdiction over the residence of the  
14 petitioner. The injunction must be served in accordance with  
15 the order of the court ~~this subsection.~~  
16 2. Within 24 hours after service of process of an  
17 injunction for protection against domestic violence upon a  
18 respondent, the law enforcement officer must forward the  
19 written proof of service of process to the sheriff with  
20 jurisdiction over the residence of the petitioner.  
21 3. Within 24 hours after the sheriff receives a  
22 certified copy of the injunction for protection against  
23 domestic violence, the sheriff must make information relating  
24 to the injunction available to other law enforcement agencies  
25 by electronically transmitting such information to the  
26 department.  
27 4. Within 24 hours after the sheriff or other law  
28 enforcement officer has made service upon the respondent and  
29 the sheriff has been so notified, the sheriff must make  
30 information relating to the service available to other law  
31

1 enforcement agencies by electronically transmitting such  
2 information to the department.  
3 5. Within 24 hours after an injunction for protection  
4 against domestic violence is vacated, terminated, or otherwise  
5 rendered no longer effective by ruling of the court, the clerk  
6 of the court must notify the sheriff receiving original  
7 notification of the injunction as provided in subparagraph 2.  
8 That agency shall, within 24 hours after receiving such  
9 notification from the clerk of the court, notify the  
10 department of such action of the court.  
11 Section 6. Subsections (1), (6), and (10) of section  
12 784.046, Florida Statutes, are amended to read:  
13 784.046 Action by victim of repeat violence for  
14 protective injunction; powers and duties of court and clerk of  
15 court; filing and form of petition; notice and hearing;  
16 temporary injunction; issuance; statewide verification system;  
17 enforcement.--  
18 (1) As used in this section, the term:  
19 (a) 'Violence' means any assault, battery, sexual  
20 battery, or stalking by a person against any other person. The  
21 term includes domestic violence, as defined in s. 741.28.  
22 (b) 'Repeat violence' means two incidents of violence  
23 or stalking committed by the respondent, one of which must  
24 have been within 6 months of the filing of the petition, which  
25 are directed against the petitioner or the petitioner's  
26 immediate family member or household member.  
27 (6) (a) When it appears to the court that an immediate  
28 and present danger of repeat violence exists, the court may  
29 grant a temporary injunction which may be granted in an ex  
30 parte hearing, pending a full hearing, and may grant such  
31 relief as the court deems proper, including an injunction

1 ~~enjoining~~ the respondent from committing any acts of repeat  
2 violence.  
3 (b) In a hearing ex parte for the purpose of obtaining  
4 such temporary injunction, no evidence other than the verified  
5 pleading or affidavit shall be used as evidence, unless the  
6 respondent appears at the hearing or has received reasonable  
7 notice of the hearing.  
8 (c) Any such ex parte temporary injunction shall be  
9 effective for a fixed period not to exceed 15 days. A full  
10 hearing, as provided by this section, shall be set for a date  
11 no later than the date when the temporary injunction ceases to  
12 be effective. The court may grant a continuance of the ex  
13 parte injunction and the full hearing before or during a  
14 hearing, for good cause shown by any party, including a  
15 continuance for the purpose of obtaining service of process.  
16 If necessary, an injunction shall be extended to remain in  
17 full force and effect during any period of continuance.  
18 (10) The terms of an injunction restraining the  
19 respondent shall remain in effect until modified or dissolved.  
20 Either party ~~The petitioner or the respondent~~ may move the  
21 court at any time to modify or dissolve an injunction at any  
22 time. Such relief may be granted in addition to other civil or  
23 criminal remedies.  
24 Section 7. This act shall take effect July 1, 1999.  
25  
26  
27  
28  
29  
30  
31



STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 1176

rectifying an intra-sectional inconsistency regarding  
visitation of parents involved in felonies involving domestic  
violence.  
enumerating notice requirements.  
providing that a non-incarcerated parent or a legal custodian  
of a minor may consent to the minor's visitation with a parent  
convicted of a capital or first degree felony involving  
domestic violence.