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**STATE LEGISLATIVE SOLUTIONS TO THE PROBLEM OF FAMILY VIOLENCE:**

**A SELECTED ANNOTATED BIBLIOGRAPHY**

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## INTRODUCTION

This document provides a listing of books, law review and professional journal articles, and other publications that discuss State legislative activity in regard to the problem of family violence. The publications were selected primarily for their discussions of State family violence laws, with emphasis on the most recent information available in this rapidly changing area of the law. Some publications that are particularly useful for understanding these laws, or that raise important issues that can be addressed legislatively, are also included.

This document consists of the following sections:

- o Overviews of the Problem and Legal Responses
  - o Criminal Justice System, Generally
  - o Spouse Abuse
  - o Elder Abuse
- o Mandatory Reporting
- o Legal Reforms: Surveys of Recent State Laws
- o Law Enforcement: Arrest Laws
- o Civil Judicial Procedures: Protection Orders
- o Marital Rape: Spousal Exemption
- o Sentencing and Dispositions
- o Service Programs for Victims: Laws and Policies
- o Divorce/Custody Proceedings
- o Confidentiality: Professional Privileges
- o Publications on Specific State Statutes

## OVERVIEWS OF THE PROBLEM AND LEGAL RESPONSES

The publications listed below provide broad insights into the dynamics and legal issues of family violence and offer a background understanding of the challenges and questions faced by State legislatures in responding to troubled families. In addition to a comprehensive book on family violence, publications that explain the history of the criminal justice system's approach to family violence are listed. Overviews of two prevalent forms of family violence, spousal abuse and elder abuse, are listed under separate subheadings.

Gelles, R.J.; Straus, M.A. Intimate Violence. New York: Simon and Schuster, 297 pp., 1988.

This comprehensive book, based on 15 years of research and over 10,000 interviews, examines the causes, effects, and treatment of child and wife battering, sexual abuse, marital rape, and elder abuse. Included in this examination is a description of the legal response to the problem of family violence.

### CRIMINAL JUSTICE SYSTEM, GENERALLY

Crites, L.L.; Hepperle, W.L. Women, the Courts, and Equality. Sage Yearbooks in Women's Policy Studies, Vol. 11. Newbury Park, CA: Sage Publications, Inc., 256 pp., 1987.

Included in this collection of papers examining U.S. Supreme Court decisions pertaining to women's rights are discussions of women as victims, litigants, and offenders. One paper examines the judicial record in responding to battered wives and their abusers and enforcing legislation designed to protect women from abuse. Other papers address the courts' interpretation of legislation to counter trial proceedings detrimental to those victimized by domestic sexual assault and the effect of no-fault divorce laws on women and children.

Goolkasian, G.A. Confronting Domestic Violence: A Guide for Criminal Justice Agencies. Issues and Practices in Criminal Justice. Washington, D.C.: Abt Associates, supported by the National Institute of Justice, U.S. Department of Justice, 176 pp., May 1986.

This report describes 20 legal agencies throughout the country that have adopted new practices for handling family violence. Onsite studies were conducted in Seattle, San Francisco, and Westchester County, New York. The entire criminal justice system was examined, including police response and arrest procedures, prosecution decisions, trials, sentencing, court-ordered therapy programs, probation, protection assistance for victims, and public awareness programs. It is suggested that early intervention and better coordination among services would help to prevent further abuse. Appendixes present

examples from selected police departments and social service agencies of new laws and procedural guidelines for family violence.

Goolkasian, G.A. "Judicial System and Domestic Violence--An Expanding Role." Response 9(4):2-7, 1986.

This article outlines recent changes in the criminal justice system's response to domestic assault. In many jurisdictions, legislation has defined the proper boundaries of police arrest practices, mandated data collection and reporting, required training programs, provided victim assistance, authorized the use of civil protection orders, and increased penalties for repeat offenders. Courts can provide protection by limiting defendants' access to victims as a condition of pretrial release, and defendants should be required to appear in court as soon as possible after arrest. Sentencing of offenders should be designed to hold batterers accountable, end the abuse, and meet the needs of victims and their families. Court-ordered counseling and education for batterers provide a promising dispositional alternative that can achieve the goals of sentencing.

Lerman, L.G. "A Model State Act: Remedies for Domestic Abuse." Harvard Journal on Legislation 21(1):61-143, Winter 1984.

This law journal issue presents a model State law that consolidates remedies for domestic violence in a single statute. Drafting comprehensive legislation to address this problem is difficult. Both civil and criminal remedies are needed to address the complex problems of battered women. Effective protection requires a coordinated response by courts, law enforcement agencies, mental health personnel, and the bar. This model act facilitates the victim's ability to request protection and to gain access to the courts. The act specifies police duties and recognizes that domestic violence may be handled as a civil or a criminal matter or as both. Finally, the act includes both punitive and rehabilitative dispositional options for the appropriate legal treatment of abusers.

Micklow, P.L. "Domestic Abuse: The Pariah of the Legal System." In Handbook of Family Violence (eds. V.B. Hasselt, R.L. Morrison, A.S. Bellack, M. Hersen; New York: Plenum Press) pp. 407-433, 1988.

This paper reviews legal traditions affecting court intervention to regulate intrafamily violence, presents an overview of legislative reforms made during the past two decades to protect domestic abuse victims, examines major legal issues resulting from these reforms, and identifies future directions for legal intervention in domestic violence. Through the development of the social service intervention model, the State became the arbiter of acceptable parental behavior in America by the middle of the 20th century. A flurry of legislative activity to respond to the plight of domestic abuse victims occurred

between 1960 and 1980. Such reforms included mandatory child abuse reporting, facilitation of the prosecution of child molesters, and the expansion and clarification of civil and criminal remedies for battered wives. Some legal disputes resulting from these laws concern the use of a justifiable-homicide defense when abused wives kill their husbands, the criminalization of marital rape, the conflict between privileged communications to professionals and mandatory reporting duties, and exceptions to the hearsay rule in child sexual abuse cases. The author recommends expansion in the use of civil protection orders.

Mullarkey, E. "Legal System for Victims of Family Violence." In Violent Family: Victimization of Women, Children and Elders (ed. N. Hutchings; New York: Human Sciences Press) pp. 43-52, 1988.

This chapter in a text for social workers presents the interaction between prosecutor and social worker in domestic violence cases as one with enormous potential for mutual benefit. However, different goals, duties, and priorities pose obstacles to this result. Whether elected or appointed, the prosecutor represents the State in all criminal matters. Prosecutors have great discretion in the initiation and disposition of cases. They are responsible for charging, making, and arguing motions for the State, and they influence disposition, including treatment. Social workers who work within the criminal justice system or for an outside agency can offer invaluable assistance to victims and prosecutors by providing additional information on the case, educating society about victims' concerns, gathering and presenting evidence, and convincing the victim to trust and confide in the prosecutor. In addition, they can serve as advocates for the victim during all stages of the criminal justice process and assist defendants by providing informed recommendations for disposition and treatment.

#### SPOUSE ABUSE

Browne, A. When Battered Women Kill. New York: Free Press, 239 pp., 1987.

Lengthy interviews with 250 battered women, 42 of whom were charged with murder or attempted murder, form the basis for this monograph. The theory of the intergenerational cycle of family violence is examined, and cultural factors in abuse are considered. The different psychological expectations of men and women in relationships are studied, as is the relationship between sexual and nonsexual abuse. The legal system's treatment of abused women is detailed. An epilogue provides the dispositions of cases discussed in the text.

Costa, J.J. Abuse of Women: Legislation, Reporting, and Prevention. Mount Dora, FL: Kidsrights, 674 pp., 1983.

This book compiles resources, information, and services available to abused women, including a review of research on spousal abuse. Information on State domestic violence legislation, a list of national and local intervention centers, and an extensive bibliography are provided.

Horton, A.L.; Simonidis, K.M.; Simonidis, L.L. "Legal Remedies for Spousal Abuse: Victim Characteristics, Expectations, and Satisfaction." Journal of Family Violence 2(3):265-279, 1987.

Since 1980, legal remedies for spouse abuse have been established in various forms in every State. Social service agencies and shelters currently encourage victims to use restraining orders, which now carry criminal consequences for the batterer, yet few empirical data have been reported concerning their use. This article describes 2 research studies, 1 conducted in Dane County (Madison area), Wisconsin, the other in Sacramento County, California. The studies provide helpful new information for referring agencies and indicate which victims use these legal remedies, what their expectations are, and how satisfied they are with the results. A final section discusses implications for change or clarification in policy, process, and education on the use of these legal remedies.

Lerman, L.G. Legal Help for Battered Women. Washington, D.C.: Center for Women Policy Studies, 13 pp., 1981.

This short book describes in general terms some new legal remedies available to battered women, without specific reference to the laws of any single State. The difference between civil and criminal courts is outlined. Civil remedies such as protection orders, peace bonds, and divorce proceedings are discussed briefly. Some of the procedures involved in criminal prosecution are laid out, including arrest, pretrial diversion, plea bargaining, trial, and probation. Shelters, hotlines, counseling agencies, and other places a battered woman can turn to for help are also suggested.

#### ELDER ABUSE

American Public Welfare Association/National Association of State Units on Aging, Elder Abuse Project. A Comprehensive Analysis of State Policy and Practice Related to Elder Abuse. A Focus on Legislation, Appropriations, Incidence Data and Special Studies. Washington, D.C.: American Public Welfare Association, 374 pp., undated.

This report presents the results of a survey conducted between October and December 1985 of State social service and aging agencies. All 50

States, the District of Columbia, Guam, and Puerto Rico participated in the survey. The questionnaire was designed to gather descriptive and statistical information about State legislation, regulations, appropriations, reporting requirements, incidence data, local agency programs, and special studies and research projects pertaining to elder abuse. Responses to the questionnaire are discussed, and State legislation is analyzed. The text of the questionnaire is included as an appendix.

Pillemer, K.; Suito, J. "Elder Abuse." In Handbook of Family Violence (eds. V.B. Hasselt, R.L. Morrison, A.S. Bellack, M. Hersen; New York: Plenum Press) pp. 247-270, 1988.

This chapter of a comprehensive book on family violence presents studies of 3 cases of elder abuse, then discusses the definition of the problem, its incidence, a framework for study, intervention strategies, and suggestions for future research. The legal and public policy interventions discussed pertain to mandatory reporting laws, protective services, and services to victims and offenders.

Skelos, D.G. "Passing Elder Abuse Laws at the State Level Has Proved to Be a Challenge." Public Welfare 46(2):33-36, Spring 1988.

Difficulties in passing State legislation on elder abuse are described, beginning with local hearings in New York State. The lengthy legislative process is detailed: legislation that funded community services for the elderly was passed into law after 2 years; another bill screening home care employees was amended 4 times before being tabled. Testimony from State Senate hearings on elder abuse is included.

U.S. House of Representatives, Select Committee on Aging, 99th Congress, 1st Session. Elder Abuse: A National Disgrace. A Report by the Chairman (Claude Pepper) of the Subcommittee on Health and Long-Term Care, May 10, 1985 (Comm. Pub. No. 99-502).

This Congressional report is a followup to the landmark Elder Abuse: An Examination of a Hidden Problem, a 1981 House Select Committee on Aging report generally credited with bringing the problem of elder abuse to national attention. In this report, Congressman Claude Pepper outlines the dynamics of elder abuse and describes the typical victim and abuser. As a remedy, he advocates the enactment by the States of mandatory elder abuse reporting laws.



## MANDATORY REPORTING

A major legislative issue associated particularly with the elderly is the requirement that medical care providers and others report suspected cases. The publications listed below address these State laws and related issues.

American Public Welfare Association/National Association of State Units on Aging, Elder Abuse Project. A Comprehensive Analysis of State Policy and Practice Related to Elder Abuse. A Focus on State Reporting Systems. Report 2. Washington, D.C.: American Public Welfare Association, 100 pp., undated.

This report presents the results of a review of the elder abuse reporting system forms, instructions, and procedures used by States in managing elder abuse information. State social service and aging agencies submitted copies of their forms, instructions for using them, procedures followed in elder abuse cases, and statistical reports produced from their elder abuse reporting systems. Data items collected from all respondents are analyzed and the operation of elder abuse reporting systems in 5 States is described. Appendixes include the forms from these 5 States and the interview schedule for the State profiles.

Lee, D. "Mandatory Reporting of Elder Abuse: A Cheap but Ineffective Solution to the Problem." Fordham Urban Law Journal 14(3):723-771, 1985-86.

This article provides an indepth analysis of 42 State elder abuse reporting laws. These laws are categorized into 3 groups: age-based, which require reporting of suspected abuse of persons over a particular age (usually 60 or 65); comprehensive, which mandate the reporting of suspected abuse of all adults; or voluntary, which permit but do not require reporting. Comparing these laws to mandatory child abuse reporting statutes, the author finds similar definitions of maltreatment and reporting requirements for professionals in specific categories, at least in the medical professions. Elder abuse laws often designate additional professionals, such as attorneys or accountants, as mandated reporters of cases of financial exploitation.

## LEGAL REFORMS: SURVEYS OF RECENT STATE LAWS

The following publications contain comparative analyses of State domestic violence laws on a variety of issues. Many subjects that appear as headings later in this document are points of comparison in these articles.

Buzawa, E.S.; Buzawa, C.G. "Legislative Trends in the Criminal Justice Response to Domestic Violence." In Crime and the Family (eds. A.J. Lincoln and M.A. Straus; Springfield, IL: Charles C Thomas) pp. 134-147, 1985.

This chapter discusses State legislative efforts to revise the criminal justice system's response to domestic violence. Changes in police operating procedures are also reviewed. It is suggested that Federal

domestic violence legislation would be preferable to State legislation. Failing Federal legislation, the development of a uniform State domestic violence statute would provide national consistency and would encourage a uniform law enforcement response to domestic violence.

Center for Women Policy Studies. State Legislation on Domestic Violence: A Resource Collection for Policymakers and Advocates. Washington, D.C.: Center for Women Policy Studies, 200 pp., 1984.

This information packet contains the results of a national survey of State family violence legislation and an article that discusses critical components of legislative remedies for spousal abuse (see Lerman and Livingston, below). The collection also contains a comprehensive model State statute (see also Lerman, "A Model State Act: Remedies for Domestic Abuse," above), as well as general information on spousal abuse and articles concerning the enforcement of State laws.

Freed, D.J.; Walker, T.B. "Family Law in the Fifty States: An Overview." Family Law Quarterly 20(4):439-587 and 21(4):417-571, Winter 1987 and 1988.

The final annual issue of this legal journal for family practitioners contains a summary of legislative and case law developments in the field of domestic relations. The 1987 summary included reviews of Pennsylvania's proposed domestic violence arrest law and Illinois' statutory scheme for the funding of battered women's shelters, which was challenged in the courts. In 1988, Illinois' family violence law amendments were reviewed. The amendments added a new definition of domestic violence and clarified the legal remedies available to victims. Minnesota's Domestic Abuse Act, which addressed child custody in dissolution of marriage cases, was also reviewed.

Lerman, L.G.; Livingston, F. "State Legislation on Domestic Violence." Response 6(5), September/October 1983.

This ground-breaking national survey of State family violence laws collected and analyzed the common components of family protection legislation. Among the elements discussed are State internal record-keeping and agency reporting requirements, law enforcement arrest provisions, pretrial detention, civil protection orders, court-ordered eviction procedures, protection order and criminal law enforcement measures, prosecutorial diversion programs, State agency assistance for victims, legislative appropriations for victims' services, and protection order petitioner provisions.

Sun, M; Woods, L. "Annual Review of Family Law." Clearinghouse Review 21(9):1192-1201, January 1988.

This article discusses the considerable activity during 1987 in the courts and State legislatures affecting the rights of women and children. Among the new developments cited in domestic violence

legislation are mandatory arrest laws, curbs on court issuance of mutual protection orders, statutory privileges protecting communications between a battered woman and her counselor, and marital rape law amendments.

#### LAW ENFORCEMENT: ARREST LAWS

Many of the calls for reform of the criminal justice system's response to family violence focus on police intervention in domestic disputes. The traditional police practice of "cooling off" the assailant if the parties are family members has been widely criticized as leading to further assaults and more serious injuries. Mandatory arrest laws have been enacted since the "Minneapolis experiment," a scientifically controlled study of police intervention conducted jointly by the Minneapolis Police Department and the Police Foundation from early 1981 until mid-1982. The study established the effectiveness of arrest in preventing subsequent assaults. These laws, as well as other police intervention issues such as dual arrests, warrantless arrests, and detention of arrestees, are discussed in the publications listed below.

Bae, R.P. "Ineffective Crisis Intervention Techniques: The Case of the Police." Crime and Justice 4:61-82, 1981.

This article presents an overview of police policy and procedures in domestic disturbance situations from a law enforcement perspective, thus providing background information for the understanding of laws designed to reform police arrest procedures.

Buell, S.M. "Mandatory Arrest for Domestic Violence." Harvard Women's Law Journal 11:213-226, Spring 1988.

Citing actual Massachusetts cases and the findings of the "Minneapolis experiment" (a study of police intervention in domestic violence situations), this article advocates the enactment of mandatory arrest laws. The author argues that mandatory family violence arrest laws, under which the police must arrest the primary aggressor if there is probable cause to believe that an assault has occurred, would end the inconsistencies of police discretion. The problem of dual arrests is also discussed.

Livingston, F. "Oregon Supreme Court Allows Battered Woman to Sue Under Mandatory Arrest Law." Response 6(1):3-4, January-February 1984.

This article discusses the decision of the Oregon State Supreme Court to allow a battered woman to sue police who failed to enforce her protection order under the mandatory arrest provision of the Oregon Abuse Prevention Act. This was the first State Supreme Court ruling

that a mandatory arrest provision can be a source of liability to noncomplying police departments. The court set forth guidelines for suits brought under the mandatory arrest statute, creating what seems to be strict liability for failure to arrest as required by the State. Because many States are adopting mandatory arrest provisions in conjunction with domestic violence legislation, police departments will have to institute new policies to implement these provisions in order to escape liability.

National Center on Women and Family Law, Inc. Arrest in Domestic Violence Cases: A State by State Summary. New York: National Center on Women and Family Law, 14 pp., January 1987.

This report consists primarily of a chart comparing family violence laws in the 50 States and Washington, DC. For each State and the District, the chart provides the following information: the acts for which a person is subject to arrest during a domestic violence police call; the arrest standard (whether arrest is mandatory or at police discretion); the penalties for violating protection, restraining, and no-contact orders; and the family members covered by domestic violence statutes. An explanatory introduction is included.

Tapper, D. "Arrest and Domestic Violence Trends in State Laws and Findings From Research." Research Utilization Update 23, August 1988.

This report from the Community Council of Greater New York cites a recent survey, which found that in 38 States and the District of Columbia, police may arrest for misdemeanor-level domestic violence. Another 10 States mandate arrest in these cases. Evaluative studies of domestic violence arrests are cited, and the program and policy implications of such laws and procedures are discussed.

#### CIVIL JUDICIAL PROCEDURES: PROTECTION ORDERS

The readings in this section are of particular value in understanding civil protection orders, the noncriminal legal means of protecting victims of family violence. Although issued by courts, these orders are authorized and governed by State laws. Often included in discussions of civil protection orders are the statutory procedures for their enforcement, procedures for eviction of aggressors, and the means of enforcement.

Hamos, J.E. State Domestic Violence Laws and How to Pass Them--A Manual for Lobbyists. National Coalition Against Domestic Violence (for the Office on Domestic Violence), Administration for Children, Youth and Families, Department of Health and Human Services, 170 pp., 1980.

In describing the procedures successfully employed to advocate for reform of State family violence laws, this book outlines the civil judicial procedures seen as most effective in protecting victims. Particular attention is paid to issues related to the enforcement of civil orders.

"The Use and Enforcement of Civil Protection Orders for Domestic Violence Cases." Response 9(4):24, 1986.

This article describes a comprehensive study by Abt Associates of Cambridge, Massachusetts, of the use and enforcement of civil protection orders in domestic violence cases in all 50 States. The product of the investigation will be an issues and practices report that summarizes where and how civil protection orders have proved helpful. Recommendations to increase the effectiveness of civil protection orders will be developed.

#### MARITAL RAPE; SPOUSAL EXEMPTION

Under traditional British common law as adopted by American jurisprudence, the crime of marital rape did not exist. A wife was presumed to consent to conjugal relations upon marriage, and the law contained no protection against sexual assault by spouses, even if the parties were separated or, in some States, divorced. The women's movement in the 1970s and the increased understanding of rape as an act of violence rather than of passion led to a widespread examination of State criminal code provisions (carryovers from common law) that exempted spouses from laws against sexual assault. The readings below describe some of the examinations of these provisions and the reform legislation that resulted.

Caringella-MacDonald, S. "Parallels and Pitfalls: The Aftermath of Legal Reform for Sexual Assault, Marital Rape, and Domestic Violence Victims." Journal of Interpersonal Violence 3(2):174-189, June 1988.

This article examines sweeping legislative changes over the past decade in criminal statutes, civil laws, and criminal justice policies pertaining to rape in general, marital rape in particular, and domestic violence. The outcomes of reform are discussed, revealing both successes and failures of ameliorative efforts. Problems in the aftermath of such reform preclude the full protection of violently victimized women. The need for further progress in this area is explained.

National Center on Women and Family Law. Marital Rape Exemption Packet. New York: National Center on Women and Family Law, 52 pp., 1986.

This compilation of information on the exemption of marital rape from State criminal statutes includes a chart providing a State-by-State

analysis of the marital rape exemption; citations of case law in marital rape litigation; a bibliography of general and legal articles, studies, and testimony; 3 articles from Clearinghouse Review on State criminal law and the marital rape exemption; the text of a speech on marital rape given before a legal association; and a fact sheet debunking many myths surrounding marital rape and its criminality.

Pagelow, M.D. "Marital Rape." In Handbook of Family Violence (eds. V.B. Hasselt, R.L. Morrison, A.S. Bellack, M. Hersen; New York: Plenum Press) pp. 207-232, 1988.

This chapter from a comprehensive book on family violence describes the nature and extent of marital rape and provides an overview of the problem, including legal and ethical issues. Legal reform to criminalize marital rape is advocated, and arguments against such criminalization are said to be unfounded.

#### SENTENCING AND DISPOSITIONS

Much of the reform of State family violence laws in the past decade was aimed at criminalizing assaults committed by family members. Although this approach may help to gain law enforcement support for victims, such laws may have a reverse effect in practice: if the penalty is perceived as unduly harsh by police, prosecutors, and judges, the law simply will not be enforced. Other considerations, such as overcrowding in correctional institutions, rehabilitation of the offender, and public policy in favor of stable marriages, also have led to a search for dispositions other than incarceration in family violence cases.

Various approaches are being explored, such as sentencing alternatives, prosecutorial diversion programs, mediation/dispute resolution, and court-ordered counseling. These alternatives are more often judicially or prosecutorially inspired, rather than legislatively mandated. However, some States do include special domestic violence sentencing measures within their reform legislation, as described in many of the State survey literature above. The following reading examines court sentencing practices.

Crites, L.L. "Wife Abuse: The Judicial Record." In Women, the Courts, and Equality. Sage Yearbooks in Women's Policy Studies, Vol. 11. Newbury Park, CA: Sage Publications, Inc., pp. 38-52, 1987.

This chapter reviews the progress made in the criminal justice system in obtaining appropriate sentencing for male batterers. Although some changes have been made, evidence is presented that judges have not abandoned the historical view of wife abuse. A pattern of judicial sentences of convicted wife abusers, judicial response to protective order legislation, and statements of judges themselves shows that judges continue to decriminalize battering based on their personal prejudices and belief systems.

## SERVICE PROGRAMS FOR VICTIMS: LAWS AND POLICIES

New family violence acts often address the family's need for comprehensive services. State laws are beginning to address service issues, once the province of private, nonprofit shelters for victims. Among the issues addressed in the following articles are such legal requirements as the provision of services not previously offered by State agencies, the establishment of State-operated shelters, legislative appropriations and other funding mechanisms for service programs, and the extension of eligibility for victims' compensation to family members affected by domestic violence.

Center for Women Policy Studies. Federal Legislation Resource Collection. Washington, D.C.: Center for Women Policy Studies, 32 pp., 1988.

This information package contains handouts on women's issues in the legislative process. The Child Abuse Prevention, Adoption and Family Services Act of 1988 is reviewed. Texts of the law and the amendment to the Child Abuse and Neglect Programs (H.R. 1900) are provided. Grants for family violence-related projects from the State Justice Institute and U.S. Department of Health and Human Services are announced. Included are articles on battered women's lawsuits against police, model legislation covering crime victims, and the judicial system's role in reducing domestic violence.

Hemmons, W.M. "The Need for Domestic Violence Laws With Adequate Legal and Social Support Services." Journal of Divorce 4(3):49-61, Spring 1981.

The author urges that reforms in the laws and justice system will not result in real improvement in the lives of those victimized by family violence unless support services are developed to meet victims' medical, legal, psychological, economic, and child care needs. Thus, comprehensive domestic violence programs should be developed that take into consideration all aspects of the problem.

McGillis, D.; Smith, P. Compensating Victims of Crime: An Analysis of American Programs. Issues and Practices in Criminal Justice Series. Office of Development, Testing, and Dissemination, National Institute of Justice, U.S. Department of Justice, 218 pp., July 1983.

This book describes State victim compensation laws, which create programs to reimburse the victims of violent crime and their families for such costs as medical bills and funeral expenses. The authors discuss the inequity that family violence victims may encounter if the State's compensation law includes blanket provisions that exclude the families of offenders from eligibility for reimbursement under these

programs. Examples of alternative legislative provisions to remedy this inequity are provided.

Schechter, L.F. "The Violent Family and the Ambivalent State: Developing a Coherent Policy for State Aid to Victims of Family Violence." Journal of Family Law 20(1):1-42, 1981.

In reviewing the growing increase in State domestic violence reform legislation, this article cites the need for a comprehensive governmental policy of social service and other practical assistance to violent families.

#### DIVORCE/CUSTODY PROCEEDINGS

The provisions of State domestic relations statutes governing child custody determinations in divorce and dissolution proceedings are being reviewed and amended in recognition of the role of family violence in precipitating a divorce (see, e.g., Hamos, above under Civil Judicial Procedures) and the detrimental effect on children who witness a parent's assaults on the other parent. The publication listed below contains information on this issue and the State legislative response.

U.S. House of Representatives, Select Committee on Children, Youth, and Families. Women, Violence, and the Law: Hearings Before the House Select Committee on Children, Youth and Families, September 16, 1987. Washington, D.C.: Government Printing Office, 187 pp., 1988.

The testimony presented at this Congressional hearing includes a panel discussion of new State laws relating to joint child custody and visitation. This panel, composed of a psychologist, the director of the Domestic Violence Institute, and a former police officer, criticized these laws as placing battered women in jeopardy. Other testimony from battered women, scholars, and legal experts addressed other criminal justice system issues, including problems in protection order statutes.

#### CONFIDENTIALITY: PROFESSIONAL PRIVILEGES

Traditionally, State rules of evidence hold communications between certain classes of professionals, such as physicians and attorneys, and their patients or clients to be strictly confidential and inadmissible in court. The trend in American law generally has been to expand the range of professional privileges to include professionals such as mental health practitioners, to further the public policy of encouraging such treatment. The readings below provide insight into the issues that must be addressed in



considering these confidentiality provisions in the context of family violence.

American Bar Association Criminal Justice Section. "Privileged Communication Between Victim and Counselor--A Model Statute." Response 9(3):10-15, 1986.

This article describes a model statute developed by the President's Task Force on Victims of Crime to encompass the purposes and conditions for establishing victim-counselor communications as privileged under State law. Of greatest interest to the study of State legislation on family violence are sections setting forth the rationale for privileged communications as a necessary component of the therapeutic relationship; defining, among other terms, "family violence," "sexual assault," and "victim"; and establishing the privilege as protecting both the victim-counselor relationship and the location and identity of the counseling center and therapist.

Campbell, J.; Humphreys, J. Nursing Care of Victims of Family Violence. Reston, VA: Reston Publishing Co., Inc., 444 pp., 1984.

This nursing text raises the question of confidentiality of communications between victims and medical professionals as a legal and ethical issue to be addressed in providing comprehensive health care services to the victims of family violence.

#### PUBLICATIONS ON SPECIFIC STATE FAMILY VIOLENCE STATUTES

Listed below are the titles and citations of publications that discuss the family violence law of the States indicated. Explanatory notes are provided as necessary.

#### ARKANSAS

Miller-Holmes, A. Marital Rape: The Unspoken Crime! Little Rock, AR: Advocates for Battered Women, 11 pp., undated.

This manual for victim advocates includes a discussion of Arkansas law on marital rape.

## CALIFORNIA

California State Attorney General's Office. Women's Rights Handbook. Sacramento, CA: California Attorney General's Public Inquiry Unit, 175 pp., January 1987.

A synopsis of State laws is included in this women's rights manual.

Martin, S.; McNeill, M. Domestic Violence. A Training Curriculum for Law Enforcement. San Francisco, CA: District Attorney's Office, Family Violence Project, 282 pp., 1988.

This 2-volume police training program covers California domestic violence laws and the State penal code.

Quinn, M.J.; Tomita, S.K. Elder Abuse and Neglect: Causes, Diagnosis and Intervention. Springer Series on Social Work. New York: Springer Publishing Co., 1986.

An appendix to this text includes California Penal Code Sec. 368, which addresses elder abuse.

## DISTRICT OF COLUMBIA

Lewis, L.A. "Toward Eliminating the Abuse, Neglect, and Exploitation of Impaired Adults: The District of Columbia Adult Protective Services Act of 1984." Catholic University Law Review 35(4):1193-1213, Summer 1986.

## FLORIDA

"A Response to the Problem of Elder Abuse: Florida's Revised Adult Protective Services Act." Florida State University Law Review 14:745-777, Fall 1986.

## ILLINOIS

Bensinger, G.J., ed. Readings on the Criminal Justice System in Chicago and Cook County. Chicago: Loyola University, Department of Criminal Justice, 238 pp., 1987.

This collection of papers on Cook County's criminal justice system includes a critical examination of the Illinois Domestic Violence Act.

Brady, T.J. "The Illinois Domestic Violence Act of 1986: A Selective Critique." Loyola University of Chicago Law Journal 19(3):797-808, Spring 1988.

Paper presented at Illinois Judicial Conference Symposium.

#### MASSACHUSETTS

Triantafillou, K. "Massachusetts: New Legislation to Help Battered Women." Judges' Journal 27:20-23, Summer 1988.

#### MICHIGAN

"Michigan's Legislative Response to Spouse Abuse." University of Detroit Journal of Urban Law 61:55-579, Summer 1984.

#### MINNESOTA

Colapietro, E.V.; Snider, F.R., eds. Sexual Assault and Battering: A Resource Manual for Physicians, Counselors, and Attorneys. Winona, MN: Women's Resource Center, 75 pp., 1985.

Minnesota legislation on battering, sexual assault, and crime victim reparation is reviewed extensively in the appendixes to this general information manual for professionals.

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