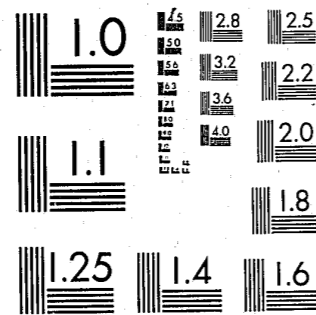


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11/9/81

# DOMESTIC VIOLENCE:

## REPORT TO THE GOVERNOR AND THE LEGISLATURE

### TASK FORCE ON DOMESTIC VIOLENCE

Karen Burstein, Co-Chairperson  
Marjory Fields, Co-Chairperson

77422

STATE OF NEW YORK  
Governor L. Carey, Governor

FEBRUARY 1980

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NCJR.

APR 28

ACQUISITIONS

GOVERNOR'S TASK FORCE ON DOMESTIC VIOLENCE

May 1980

To Governor Hugh L. Carey and Members of the New York State Legislature

We transmit here the report of the Task Force on Domestic Violence and the amended program bill which our deliberations shaped.

We also take this opportunity to thank you for the vision which created our Task Force and for your encouragement of agency involvement in its work. It has been an exciting period for us, because of the hours, energy and imagination that Task Force members have voluntarily committed to immediate and long-range projects. Moreover, the Advisory Board, comprised of those state departments with an interest in the area of domestic violence and designees of the Majority and Minority in both houses of the Legislature, has participated actively in the formulation of our proposed policy and programs. We anticipate ongoing productive cooperation.

In addition to expressing our gratitude to all Task Force Advisory Board agency heads and legislators, we want to single out a number of people who assisted us before we had full-time staff. We are grateful to Mary Burke Nicholas' office for the enthusiasm and assiduousness of Libby Antarsh and Rhonda Kirschner. We are also enormously appreciative of the aid we received from Ilene Margolin's Council on Children and Families, in the person of Blair Barrett Nare, who served as project director and who was largely responsible for drafting the report. In the Department of Social Services, under Barbara Blum's direction, we tapped the technical expertise of Pam Daniels and Candy Butcher, who generously answered all of our inquiries. Lou Cotrona of Frank Rogers' DCJS and Sidney Smerznak of David Axelrod's Health Department were especially helpful on a range of practical and research issues. Finally, we could not have succeeded without the skill and dedication of Jeanne Kwartler, Assistant Secretary to the Governor. Jeanne functioned as executive director and coordinated on a daily basis our concerns and effort.

The enclosed report represents the first product of our deliberations. We think it a substantive contribution to the field, but only an initial description of the problem in this state and an intermediate resolution of some of the more pressing legal difficulties associated with that problem. Because of the extensive work we contemplate for the future, we are happy that we were recently able to hire a project director, Jane-Carol Glendinning. Her presence during the last several weeks has provided us needed continuity and focus.

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We have set ourselves ambitious goals, but we intend to realize them, for our purpose is so important. We see the ultimate challenge as the articulation of ideas and the creation of service models that will make the home a safer and gentler place.

Sincerely,

Karen S. Burstein

Marjory D. Fields

## INTRODUCTION

The phone rang just before noon. A trembling voice asked to speak with someone from the Governor's Task Force on Domestic Violence. The caller was a woman whose husband had recently moved out of their home, at the insistence of a counselor concerned about the increasing severity of his attacks on his wife. The night before, he had returned and beaten her again, threatening to kill both her and their children. Sobbing, the woman asked where she could go to be safe since he had also threatened to kill her parents if she went to them. "Do they really end up doing it?" she asked, her voice breaking. "Will he really kill all of us?"

Fortunately, the first shelter for battered women in her county had just opened. After a call from the Task Force, a counselor there picked up the terrified woman and her children and took them to a hospital and then to the shelter. Her husband considered her move an "overreaction".

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The Governor's Task Force on Domestic Violence was established by Executive Order #90 on May 17, 1979 to study "the traumatic effects of domestic violence and how our social and legal systems can better deal with such violence and its causes." Those words cannot fully convey the ten years of suffering experienced by the family described above. The Task Force was created in response to their pain and that of many others who had given testimony at great emotional cost to themselves.

The police officers, attorneys, judges, shelter staff, social workers, former victims, nurses, community workers, clergy and counselors who comprise the Task Force have voluntarily worked days and weekends during the summer and fall of 1979, identifying weaknesses in the various institutions intended to protect family members from brutalization. They have been assisted in their work by members of an Advisory Board comprised of state officials appointed by the Governor and legislators appointed by Assembly Speaker Stanley Fink and Senate Majority Leader Warren Anderson. The members of the Advisory Board participated in all of the Task Force meetings. The Task Force's recommendations are based on the members' daily contact with victims and offenders in domestic violence situations, and represent their sense of the initial tasks that must be accomplished immediately to make the helping system responsive. The Task Force's long-term goal -- the prevention of domestic violence in New York -- will need to be continuously addressed by an effort among the State, localities and the Federal Government. It is hoped

that the short-term recommendations contained in this report will be implemented in the 1980 Legislative Session.

I. WHAT IS DOMESTIC VIOLENCE?

Domestic violence is not limited to wife abuse or spouse abuse. The problem encompasses child abuse, abuse of siblings, abuse of the elderly and other intra-family violence. Although violence can occur within any intimate relationship, experience has clearly shown that the most frequent victims are women, children and elderly family members. In fact, abuse of women and children was once sanctioned at common law. Until 100 years ago, children and wives had no legal status; they were deemed the property of their fathers and husbands and were under their exclusive control. The influence of that historical legal system has resisted explicit changes in law and ostensible changes in social values. It survives today in the form of tacit condonation of abuse of weaker family members.

Our concern for all victims of domestic violence is integrated in this report; the focus of the recommendations is, however, on violence within couples and on the most common type of that violence: wife-beating. Future reports and recommendations will specifically address child abuse, incest, and abuse of the elderly.

In New York, acts which "would constitute disorderly conduct, harassment, menacing, reckless endangerment, an assault or an attempted assault between spouses or between members of the same family or household" (Family Court Act, Sec. 812) are defined as

"family offenses". ("Family offenses" do not include murder or attempted murder.) Those illegal acts defined as "family offenses" because the victim and the offender are related by blood or marriage may be prosecuted as civil wrongs in the Family Court of the State of New York. The Family Court cannot impose criminal penalties but may issue orders of protection directing the person found to have committed a family offense to cease the offensive conduct. Alternatively, if the victim chooses and the prosecutor concurs, a "family offense" may be prosecuted in an appropriate criminal court. The criminal court has the power, after conviction, to impose criminal penalties, fines and jail sentences.

Domestic violence ranges from verbal abuse to murder. A recent unpublished study of women who used the Family Court, a shelter, and a counseling program in New York City reported that in the majority of those cases, the women's injuries had been produced by beating, kicking or choking. In a significant number of cases, the incident involved a weapon: a club, a knife or a gun. The assumptions people make about how severe individual incidents of domestic violence are determine how significant they believe the problem is in our society. A policymaker who imagines domestic violence is limited to "a little pushing and shoving" will not see domestic violence as a social problem at all. A policymaker who recognizes that intra-family violence frequently involves recurrent severe attacks and prolonged beatings will identify domestic violence as a crucial social issue. That recognition is essential if decisionmakers are to allocate adequate resources to provide meaningful assistance to victims and their families.

How common are incidents of domestic violence? In New York, it is difficult to answer that question because the relevant data are not collected. This is a problem we address later in the report. However, statistics that are available indicate that family violence is prevalent. Between September 1, 1978 and September 1, 1979, 17,701 family offense petitions were filed in the New York Family Court (Office of Court Administration); 278 spouse murders occurred in New York between 1976 and 1978 (Division of Criminal Justice Services). The New York City survey mentioned earlier revealed that the backgrounds of the women victims were so diverse as to defy categorization, as were the histories of their abusers. Minnesota has the best statewide profile available. Based on thousands of reports from law enforcement, medical and social service personnel, the "typical" battered spouse in Minnesota is a white woman between the ages of 18 and 35, with children, whose husband has beaten her more than once, each episode leaving her with visible injuries such as bruises and lacerations. As in the New York City study, such assaults were recorded among women of all ages, races and socio-economic groups.

Data from other states are equally limited. A Cleveland, Ohio survey found that physical abuse was cited as a complaint in 37% of divorce petitions filed by women. A New Hampshire survey found that 34% of a randomly selected group of families had experienced "at least one" incidence of violence in their marriages. On the national level, the recently published survey of Violence in the American Family, by Strauss, Gelles and Steinmetz, found that 3.8% of the 2,143 couples

surveyed reported one or more serious physical attacks during the preceding year. In one-third of those cases, the wife had been assaulted five or more times during the year. Another survey conducted by pollster Lou Harris in Kentucky concluded that "if anything, the middle class is more prone toward physical assault than the poor."

Using the frequency of spouse abuse reported by Strauss, Gelles and Steinmetz, we estimate that in New York State there are 144,000 marriages in which at least one serious assault results in visible injury each year. This is a conservative estimate because of under-reporting; the actual frequency of spouse abuse, like rape and child abuse, is always higher than the reported frequency. What we do know leads us to conclude that the cost of domestic violence to our State is clearly high -- in demands on law enforcement officials, in impact on family disintegration, in psychological scarring of victims and children -- and most tragically, in lost lives.

## II. NEW YORK RESPONSE

The movement against wifebeating started in England in 1971. A courageous woman named Erin Pizzey, feminist and maternal, opened a run-down house to which local women fled from violent husbands with their children. It was immediately filled to overflowing. Within a few years the work of that one woman led to a network of refuges throughout the United Kingdom . . . .

In 1972, Women's Advocates, Inc., in St. Paul, Minnesota, began a telephone information and referral service for women . . . . in October 1974, Women's Advocates began operating the first refuge in

America for battered wives and their children . . . .  
for years (there was) only one therapist on the  
eastern seaboard specializing in counseling for the  
entire battered family . . . .  
Terry Davidson, Conjugal Crime

The movement against domestic violence reached New York in the early 70's as an outgrowth of many community-based women's groups that met in all parts of the State. Two aspects of the activities of these groups led to the decision to focus on the problems of wife-beating: the informal community crisis intervention networks for women, and the more formal "Rape Crisis Hot Lines". Sensitized by the abused women seeking their help, individuals opened their homes to victims in what became known as "safe home networks". Women's groups negotiated with community centers, YWCA's, hospitals and counseling programs to provide further services.

In 1975, Maria Roy of New York City convened the first New York State Conference on the Abused Wife, and shortly afterward, organized AWAIC (Abused Women's Aid in Crisis), which began operating a hotline. AWAIC is presently receiving 100 calls a month requesting emergency shelter. It counseled 45 families during the first half of 1979.

In 1976, Brooklyn Legal Services attorney Marjory D. Fields<sup>1</sup> contacted then State Senator Carol Bellamy<sup>2</sup> with the disturbing complaint that New York's Family Courts were not enforcing existing laws against spouse abuse. Her charge resulted in the filing by Senator Bellamy and Senator Karen Burstein<sup>3</sup> of a number of bills

<sup>1</sup> Now Co-Chair, Governor's Task Force on Domestic Violence.

<sup>2</sup> Member, Task Force Advisory Board and President, New York City Council.

<sup>3</sup> Now Co-Chair, Governor's Task Force on Domestic Violence and Public Service Commissioner.

aimed at correcting Family Court deficiencies and expanding a battered spouse's legal options to include access to criminal courts. Also in 1976, a class action suit was brought against New York City Family Court and the New York City Police Department (Bruno v. Codd) by twelve battered wives represented by the Litigation Coalition for Battered Women. The complaint charged that neither the police nor the Family Court were enforcing existing laws against domestic violence.

The first state legislative hearings on the issue of domestic violence, sponsored by Speaker Stanley Steingut's<sup>4</sup> Assembly Panel on Women's Issues and the State Minority Task Force on Women, were held in 1977 and took as their theme: "The Battered Spouse: Has the System Failed?" At these hearings, conducted in New York City, Rockland County, Albany and Buffalo, battered women, police officers, shelter staff, Family and Supreme Court judges and other persons involved in this service system testified about the problems in that system. The following excerpt from a victim's testimony is representative:

The final break came when within a one week period:

I sat with the muzzle of a cocked 45 six inches from my face listening to a description of how my brains would look shattered against the wall.

Susie was chased from the house with a bread knife because she looked like me;

And, business irregularities came to light which forced him to relinquish his control and any association with the business.

<sup>4</sup> Member, Governor's Task Force Advisory Board.

I know as surely as I was breathing that Tom's solution would be to kill all of us and himself... With this immediate fear superceding all past considerations, I obtained an Order of Protection. The locks were changed and metal barricades put on every door.

There followed five years of repeated attempted break-ins. Always with police sirens wailing. Always ending in Police Court with a mere reprimand to him, or Family Court where I was advised to ignore him, "he's trouble." No support edicts from Family Court were honored by him and no enforcement was carried out.

As a result of these hearings, two major legal changes were enacted during the 1977 Legislative Session. First, the "concurrent jurisdiction bill" (Chapter 449 L. 1977) sponsored by Speaker Steingut and Senate Majority Leader Warren Anderson, gave battered spouses the choice of pursuing their cases in Family Court or in a criminal court. Second, the "shelter bill" (Chapter 450 L. 1977), sponsored by Speaker Steingut and then State Senator Karen Burstein, permitted the Department of Social Services to approve "special care homes" as shelters for victims of domestic violence and their children. These measures signaled a new understanding of the urgency of the problem on the part of the Legislature.

Public and legislative attention were further directed to the issue by the 1977 report, Battered Women, published by State Senator Manfred Ohrenstein and researched by Barbara Schwimmer.<sup>5</sup> The report detailed the answers of social service, hospital and law enforcement personnel to questions concerning the frequency of domestic violence and their services to victims. The report concluded that, because

<sup>5</sup>Member, Governor's Task Force on Domestic Violence, Chairperson/ Data Collection and Evaluation Subcommittee.

of the lack of data collection systems, "battering as a social problem or as an individual act of violence is statistically non-existent." Reflecting this official ignorance was the absence of social and medical services, leaving "the police agency the only public agency readily accessible on a 24-hour basis in times of crisis."

The Ohrenstein/Schwimmer report made several recommendations for State action. Some of those recommendations have been implemented. For example, the report called for services to domestic violence victims to be made available through the State's Title XX program. This was done in the Department of Social Services' 1978-79 Comprehensive Annual Social Services Program Plan. Other recommendations are repeated by the Governor's Task Force in this report since the importance of implementing them has not diminished during the past three years.

In 1978, the State Assembly Panel on Women's Issues, chaired by Assemblywoman Estella B. Diggs, conducted a series of public "workshops" for judges, attorneys, police officers, women's advocates and shelter staff to evaluate the effectiveness of the new concurrent jurisdiction law. Agreements were reached on several necessary amendments, which became law in 1978 (Chapters 628 and 629 of the Laws of 1978). These amendments clarified procedural questions concerning when a battered family member could exercise her/his legal right to choose Family Court or criminal court, thereby facilitating use of the new law.

Greater access to the legal system for victims of domestic violence was also enhanced by the settlement of the police portion



of the Bruno v. Codd lawsuit. A consent decree, which became effective October 1, 1978, requires police to answer domestic dispute calls promptly and to make arrests when a felony has been committed or an order of protection has been violated (see Justice Subcommittee report below). The remaining part of Bruno v. Codd dealing with Family Court and Probation Department personnel was argued separately in the Court of Appeals. The Court ruled in 1979, stating that "the welcome efforts of plaintiff's counsel and amici in this case have no doubt alerted, even sensitized our courts to the full measure of their responsibilities," and thereby made a trial of the issue unnecessary. Most service providers, however, disagreed with the view that the courts are fulfilling their responsibilities to the victims of domestic violence.

The majority of services now available to New York's victims of domestic violence are provided by a special grants program begun by the Department of Social Services (\$1,387,550 since 1977). These grants, awarded largely to grass roots organizations, have resulted in the creation of seven special care homes, four community services coordination and safe home networks, and three research and demonstration projects exploring such issues as emergency room care, legal assistance and couples counseling. Two additional special care homes have been licensed during this period. During the 1978-79 fiscal year, the New York State Department of Social Services funded 11 domestic violence projects around the state, ranging from shelters to a legal advocacy program and counseling programs for batterers.

Simultaneously, additional community groups developed shelter/advocacy/counseling programs, some of which were supported by other state agencies such as the Office of Mental Health, the Division of Criminal Justice Services and the Division for Youth. In 1978, many groups formally organized themselves as the New York State Coalition Against Domestic Violence, a support and advocacy group representing a wide range of community-based service providers from every region of the State. The Coalition, chaired by Sandi Gerrish<sup>6</sup>, functions as a political and technical assistance resource for communities wishing to expand or establish programs.

In short, the period between 1977 and 1979 was one in which government and public concern expanded throughout the state. The most recent directory of services available to victims of domestic violence shows 101 programs now operating in 40 counties. As the members of the Governor's Task Force can testify from direct experience, however, much remains to be done if New York is to be effective in its efforts to prevent the continued tragic use of violence by family members against each other.

### III. THE WORK OF THE TASK FORCE

In preparation for the issuance of this report, the Task Force established subcommittees to deal with four major areas of concern: the Justice System; Education, Training and Outreach; Data Collection and Evaluation; and Services. During the summer and fall of 1979, those subcommittees met in lengthy sessions and, with the assistance

<sup>6</sup>Member, Governor's Task Force on Domestic Violence.

of Advisory Board members, formulated, considered and approved the twenty-one recommendations contained in this report. The recommendations represent immediate goals. Given the correlation of domestic violence with other societal problems of unemployment, alcohol abuse, sexism and acceptance of violence, long-term goals and objectives are described in the remainder of this report.

#### RECOMMENDATIONS

1. The Family Court Act and the Criminal Procedure Law should be amended to clarify and expand provisions for preliminary relief and enforcement of orders of protection. Family Court jurisdiction over first degree assaults should be repealed, thereby giving the criminal courts exclusive jurisdiction over the most serious assaults. These provisions are contained in an omnibus bill.<sup>7</sup>
2. Legislation should be passed authorizing Family Court judges to order a batterer to participate in a "designated violence prevention and treatment program." (S5379, Pisani; A7766, Nadler, Kremer, Diggs, Engel, Farrell, Fossil, Hirsch, Jacobs, Lipschutz, Perone, Pesce, F.M. Sullivan)
3. Legislation should be passed establishing indigent petitioners' right to court-appointed counsel. Indigent respondents now have this right. (S5380, Pisani; A7771, Nadler, Siegel, Kremer, Diggs, Engel, Farrell, Hirsch, Jacobs, Lipschutz, Perone, Pesce, F.M. Sullivan)
4. Legislation should be passed requiring respondents found to have committed family offenses to pay the legal and medical fees of petitioners. (S5373-A, Pisani; A7770-A, Nadler, Kremer, Diggs, Engel, Farrell, Hirsch, Jacobs, Koppell, Perone, Pesce, Connor)
5. Legislation should be passed allowing abused former spouses and unmarried, cohabiting adults to have access to either Family Court or a criminal court.

<sup>7</sup>A copy of the omnibus bill is in Appendix A; copies of other bills which became law in the 1980 Legislative Session and other proposed legislation endorsed by the Task Force appears in Appendix B.

6. The Governor should mandate each human service and criminal justice agency to produce domestic violence training designs for all staff having public contact, prior to December 31, 1980.

An assessment should be made to determine whether statewide training programs become effective on the county level. The Governor's Task Force should provide a monitoring and review resource for these training activities.

7. The Governor should require every state agency having client contact to conduct a public information campaign to educate its constituencies about the laws and services relevant to domestic violence problems, prior to December 31, 1980.
8. The Governor should recommend to the Board of Regents that all institutions of professional education licensed by the New York State Department of Education or any other State department, including medical schools, law schools, graduate schools of social work, nursing schools, divinity schools, schools of psychology and psychoanalytic institutes, develop curriculum materials on domestic violence issues. In addition, preventive and education curriculum materials should be prepared by the State Education Department for use in New York's elementary and secondary schools.
9. A treatment protocol for emergency room staff should be developed by the State Health Department in order to insure the appropriate response of health personnel to victims of domestic violence. This protocol should be comparable to the existing procedure prescribed in cases of rape, and should include procedures for examination of child sexual assault victims similar to the protocol used in Connecticut's Sexual Trauma Treatment Program.
10. The State Health Department should institute a pilot project in several selected hospitals in which emergency room staff would submit domestic violence incident reports to the Department using reporting forms which would not disclose a victim's name.
11. The Governor should direct state agencies presently collecting domestic violence data to do so in a coordinated manner, by developing a cross-agency data collection instrument applicable to each agency's computer systems and designed to produce the most usable data base. This should be a phased process initially on a demonstration basis.

12. Local police agencies should be directed to collect domestic violence data in the form mandated by the Division of Criminal Justice Services.
13. All agencies presently required to collect data on domestic violence should submit that data as part of their annual reports to the Governor and the Legislature.
14. The Governor and Legislature should support the creation of a statewide media campaign to inform New Yorkers about laws pertaining to domestic violence and services available to family members.
15. A Handbook for Beaten Women, previously published by Brooklyn Legal Services, should be updated, reprinted and disseminated statewide (S.5225-A, Pisani, A.7625, Nadler, Connelly, Cooke, Diggs, Grannis Jacobs, Lipshutz, Newburger, F.M. Sullivan).
16. The state should establish a 24-hour, 7-day a week toll-free information and referral service to provide information concerning domestic violence programs and services.
17. Creative long-term methods for funding shelters, including but not limited to Emergency Assistance to Families, must be developed. The Governor should direct the Task Force, the Advisory Board, the Division of the Budget and the Legislature to develop potential financing mechanisms by January 1, 1981 with funding of shelters to remain at present levels until then. Particular attention should be paid to better utilization and coordination of Federal, foundation, State and local funding.
18. The Governor should direct the appropriate state agencies to sign memoranda of understanding coordinating appropriate programs and guaranteeing that all members of families experiencing domestic violence will be categorically eligible to receive necessary state services (alcoholism programs, child protective services, medical care, legal representation, mental health services, special care shelters, police protection, social services, public assistance and emergency public assistance).
19. All programs dealing with domestic violence should identify and respond to the particular service needs of the abused elderly.

20. To strengthen the ability of the criminal courts to respond to domestic violence cases, the existing domestic violence program within the Westchester District Attorney's office should be evaluated so that it may be appropriately replicated.
21. The Governor's Task Force on Domestic Violence should be continued and staffed to provide the coordination and technical assistance necessary to ensure the implementation of the preceding training and outreach, legal, data collection and service recommendations. The Task Force and its Advisory Board should also develop further recommendations concerning broader domestic violence concerns, particularly focusing on the relationship between adult and child abuse, more realistically defined as a cyclical family violence problem.

IV. BACKGROUND: THE JUSTICE SYSTEM

Subcommittee Chair: Jeanine Ferris Pirro

Members: Marjory Fields, Howard Miller, Peter Mancuso,  
Joseph Ferraca, Meg O'Regan-Cronin, Ruth Siegel

Under current New York law, a person who is abused by his or her spouse may choose whether to pursue his or her case in Family Court or a criminal court. The main purpose of Family Court is family reconciliation; the purpose of criminal court is punishing offenders. In Family Court, the victim has the absolute right to file a petition. In a criminal court, the District Attorney must decide whether or not to prosecute a case. Both courts, however, may issue temporary orders of protection, which forbid offensive conduct by the spouse until the case is decided. Violation of an order of protection constitutes an additional offense in itself.

Once a victim has filed a petition or a criminal complaint, she or he has 72 hours under the law within which to change to the

other forum. This provision was added to the law so that a victim would not be bound by a choice made immediately after an injury. Additionally, if the Family Court judge believes that the services of the Family Court are inappropriate, he or she may, with the victim's consent and upon notice to the District Attorney, refer the matter to a criminal court.

The Task Force's proposed bills concern the operation and procedures of the two courts. The omnibus bill clarifies technical aspects of granting and enforcing orders of protection, and makes severe assaults (those involving a deadly weapon, demonstrating intent to disfigure another person seriously and permanently, or creating a grave risk of death) solely in the jurisdiction of the criminal courts. As the Justice Subcommittee stated in its memorandum:

This exclusion, like the present exclusion of attempted murder, is a public policy statement that serious acts of violence between family members will not be tolerated. Violence in the home is as serious a breach of public order and safety as violence in the streets. Family violence is learned by children who take the violent response into the schools and streets, and later transmit it to their children. Strengthening of legal sanctions against violence in the home is a step toward stopping it in individual cases, and toward educating the public that violence in the home is as much a criminal act as violence in a public place.

The Task Force believes that it is necessary to extend the same right to court-appointed counsel to victims which is now available to alleged abusers and parties in custody and support disputes. Experience has shown the need to increase the options available to Family Court judges in making dispositions in family violence cases,

especially to direct financially responsible spouses found to have committed family offenses to pay the medical and legal fees of the injured spouse, and to direct offenders to enter violence prevention programs. These programs would be based on existing models such as the courses now given to people convicted of alcohol-related driving offenses. The Task Force members also believe that "common-law" partners should have access to Family Court services.

Finally, at the recommendation of the Justice Subcommittee, the Task Force will begin during 1980 to explore possible legal changes relating to both sexual and non-sexual abuse of children.

V. BACKGROUND: EDUCATION, TRAINING AND OUTREACH

Chair: Dr. Stephen Shapiro

Members: Hortense Barber, Mary Ann Dee, Geraldine Eiber,  
Sandi Gerrish

It is essential that training programs as complex as those now existing in the Office of Court Administration, the Department of Social Services and the Division of Criminal Justice Services (to name some of the existing programs), be given a review commensurate with the seriousness of the problem and the effort that has gone into the preparation of the training materials. In addition, other State departments which provide human services or perform a criminal justice function should be directed to assess their existing in-service and new staff training programs and produce new training materials along with a budget for implementation. The departments and agencies are best able to assess their own needs with the Governor's Task Force serving as a resource and review mechanism for this process.

Accordingly, the Education, Training and Outreach Subcommittee sent letters to the State agencies on the Task Force Advisory Board requesting information on current staff training programs. Thirteen responses were received. As Dr. Shapiro's memorandum to the Task Force states:

The responses from the State Commissioners are varied, with the Police and DCJS most seriously committed to staff training in this area, and the Department of Social Services making a commitment. Other departments have variable interest in the issue of spouse abuse, but have done more work in the area of child abuse. It is clear that much more work needs to be done to sensitize staff to the issues of spouse abuse, abuse of the elderly and sexual abuse of children . . . .

It might also be helpful if the department or office selected to do the staff training also be asked to take responsibility for public education in the area of domestic violence, or for using the existing channels in all State departments for public education.

VI. BACKGROUND: DATA COLLECTION AND EVALUATION

Chair: Barbara Schwimmer

Members: Karen Burstein, Fern Beavers

As part of its activities, the Subcommittee polled State agencies on their data collection efforts with respect to domestic violence. The Department of Social Services has the most extensive figures, arising from their funded programs; the Office of Court Administration collects information on Family and Criminal Court proceedings; several other agencies collect partial information secondary to their major information-gathering activities; but most have no information

on the subject. The most critical absence of information exists in the health area, since hospital emergency rooms are a major service provider and entry point for victims.

Other problems identified by the Subcommittee include:

- the lack of awareness by nominally responsible State agencies of programs collecting data at a local level;
- the failure of the State to use valuable information collected by local government or voluntary agencies; and
- the lack of readily available methods for determining the extent of the most hidden forms of abuse: abuse of the elderly and sexual abuse of children.

The Division of Criminal Justice Services has begun to take action on these problems by adding a box to its monthly offense report which will distinguish between domestic and non-domestic assaults responded to by local police departments. It is expected that this information will begin to be collected by the Division by mid-1980.

The Task Force's long-range goal is the development of data collection systems among all State agencies having contact with victims of domestic violence. As the Subcommittee's report to the Task Force summarized:

Any data collection program, which obviously precedes an adequate program evaluation effort, should, in our view, meet the following criteria:

1. There must be no violation of the privacy of victims and, to the extent that information is collected about alleged offenders, the confidentiality of that information must be assured.

2. The data collected should be comparable in form from source to source.
3. The questions eliciting data should tell us not only what presently happens, but how future needs can be anticipated so that policy planning is possible.
4. There must be a capacity to assure timeliness and freshness of information.
5. The forms used should not impose unnecessary administrative burdens.
6. There should be a central place for the collection of the raw data and distribution of results.

VII. BACKGROUND - SERVICES

Chair: Nancy Barrett

Members: Ron Seward, Emily Young, Susan Eggenberger,  
Mary Lou Zimmer, Dr. Andrew Mann, Jean Amatucci

The majority of services to victims of domestic violence are provided through a special grants program in the Department of Social Services. The Emergency Assistance to Families program, also through DSS, reimburses shelters and other emergency housing facilities for services to families. Other State agencies provide services either directly by funding shelters (Division of Criminal Justice Services, Office of Mental Health, Division for Youth) or indirectly as part of their ongoing programs (alcoholism, substance abuse). The major service-related problems identified by the Subcommittee were:

- the absence of any services at all in 19 counties;
- shelter funding problems:

- service coordination (i.e. community agencies such as mental health counseling programs generally do not recognize or respond to the needs of batterers, victims or witnessing children); and
- outreach (the majority of troubled families are not aware of available services in their communities).

As the Service Subcommittee stated in its report to the Task Force:

The weakest link in the existing services network is that of emergency shelter for victims of domestic violence. Because families experiencing violence are certainly not limited to welfare-eligible families, it is recommended that the Department of Social Services not be viewed as the sole funding mechanism for shelters. For example, although Emergency Assistance to Families (EAF) is one resource currently available for violent families which can be widened to include non-public assistance families during the crisis period, it still does not serve all victims of family violence, particularly the batterers. Thus, shelters and/or services programs for the assailants might be funded by programs regulated by the Office of Mental Hygiene.

In addition, families - or any member of a family in crisis - should be entitled to a range of services in the community, regardless of the family's income and irrespective of the pathologies which may be exhibited by a family member or of circumstances making the family eligible to receive services under one set of regulations but ineligible under another agency's requirements. It should be the responsibility of an Interagency Task Force to coordinate agency regulations, refining or redesigning legislation where necessary, in order to ensure accessible, harmonious service delivery at the local level for families experiencing violence. The presence of violence in a family should automatically entitle any member of that family to such services as: counseling (marital, family, individual), legal services, medical care, police protection, judicial redress, shelter, alcoholism/drug abuse/psychiatric services where appropriate, child care, employment and/or education training. Since most of these services are already available in communities across New York State, it will be the State's responsibility to assure access to them for domestic violence victims, regardless of the point at which the victims enter into the 'system': through the police, hospital emergency room, welfare center, etc.

The Division of Alcoholism and Alcohol Abuse and the Department of Social Services have begun exploring the possibility of executing such an interagency agreement. Their initiative will serve as a model for other affected agencies.

VIII. CONCLUSION

Violence between spouses alone accounts for hundreds of murders, thousands of divorces and countless emotionally damaged children and adults annually. While other family crises have similar tragic effects, physical abuse of one family member by another has been shown to have uniquely shattering effects: on the batterer, the victim and the children who ultimately become victims as well as witnesses. The ripple effect of domestic violence forces the State to pay far too much for police services, criminal prosecutions, incarcerations, Family Court personnel, foster care, public assistance and juvenile corrections.

We know there are strong connections between domestic violence and juvenile delinquency, foster care, divorce, alcoholism and other social problems. It is therefore the responsibility of all New Yorkers who care about families and the State's economy to assure that preventive and treatment services are provided to families who seek them. Neither social nor economic pressures should continue to force family members to remain in situations which place them at risk of death. Such services will ultimately save Federal, State and local governments money because violence and its costly aftermath will be reduced.

The Task Force has no startling revelations to make about the causes of domestic violence in New York State. The survey of New York City women referred to above revealed that alcohol, money and infidelity were the factors mentioned most often as associated with abuse. Many families, however, experience these problems without resorting to violence, while many violent families do not have these collateral problems. Clearly, the general tolerance of violence in our society, combined with the lingering effects of earlier laws making wives and children the property of their husbands and fathers, creates an atmosphere in which family violence is likely to occur. The growing lack of regard for the increasing number of older family members similarly exposes the elderly to the risk of abuse.

Any long-term preventive measures taken by government, then, must include a commitment to raise the societal status of women, children and the elderly, as well as a commitment to reject violence as a problem-solving tool, at home and on the streets. If these commitments are not made, the need for shelters, counseling, police and other services will only increase as one generation of violent families continues to produce another.

In the short run, however, the Task Force believes that implementation of its immediate recommendations will be both a great assistance to troubled families and the first step toward demonstrating society's commitment to prevent and ultimately end the underlying causes of domestic violence.

Abuse within families is the deepest possible violation of our shared sense of what "family" means. Until we can ensure that none of New York's homes will be places of pain, terror and injury, the Task Force's responsibilities will not be fulfilled.

APPENDICES\*

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Governor's Approval Memorandum for bills concerning domestic violence passed in the 1980 Legislative Session

Appendix A . . . . . 30

Governor's Omnibus Program Bill  
Chapter 530 of the Session Laws of New York, 1980;  
S. 10110, A. 12123

An act to amend the family court act, the domestic relations law, the judiciary law, the criminal procedure law and the penal law, in relation to family offenses and to repeal certain provisions of the family court act relating thereto

Appendix B . . . . . 44

Chapter 531 of the Session Laws of New York, 1980  
S.5379, A.7766 passed both Houses in the 1980 Legislative  
Session and was signed by the Governor

An act to amend the family court act, in relation to orders of protection (so that a family court judge may require a respondent found guilty of committing a family offense to participate in certain designated violence prevention programs)

Chapter 532 of the Session Laws of New York, 1980  
S.21039, A.7770-A passed both Houses in the 1980 Legislative  
Session and was signed by the Governor

An act to amend the family court act in relation to orders of protection (so that a respondent found guilty of committing a family offense shall be required to pay the petitioner's counsel fees)

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\*These Appendices were revised to indicate actions taken in the 1980 Legislative Session on bills supported by the Governor's Task Force on Domestic Violence.



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S.5380, A.7771  
Passed the Senate in the 1980 Legislative Session  
but was not reported out of the Assembly Ways and Means  
Committee

An act to amend the family court act  
in relation to assignment of counsel for  
indigent persons so that indigent petitioners  
may be assigned counsel in family offense  
proceedings)

S.7942-A, A.9358-A  
S.7942, A.9358 was amended twice in the Senate Judiciary  
Committee; Assembly Calendar 713 at the close of the 1980  
Legislative Session

An act to amend the family court act  
in relation to providing for expenses  
incurred for medical care and treatment  
with respect to the conditions set forth in  
an order of protection (so that a respondent  
found guilty of committing a family offense  
shall be required to pay the petitioner's  
medical expenses)

A.7625  
Passed the Assembly at the close of the 1980 Legislative  
Session after the Senate had adjourned

An act in relation to making an appropriation  
to the department of social services for the  
purpose of contracting with the family law  
unit at Brooklyn Legal Services Corporation B  
to publish and distribute "A Handbook for Beaten  
Women"

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Executive Order No. 90, May 17, 1979

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Agency affiliation of members of the Advisory  
Board and their designated representatives

INTRODUCTION

The Governor's Approval Memorandum for bills concerning domestic  
violence passed in the 1980 Legislative Session appears on the  
following pages.

STATE OF NEW YORK  
EXECUTIVE CHAMBER  
HUGH L. CAREY, GOVERNOR

-28-

Michael Patterson, Press Secretary  
518-474-8418  
212-977-2716

FOR RELEASE:  
IMMEDIATE, THURSDAY  
JUNE 26, 1980

STATE OF NEW YORK  
EXECUTIVE CHAMBER

June 24, 1980

MEMORANDUM filed with the following bills:

Assembly Bill 12123, entitled:

#61  
(Chapter 530) "AN ACT to amend the family court act, the domestic relations law, the judiciary law, the criminal procedure law and the penal law, in relation to family offenses and to repeal certain provisions of the family court act relating thereto"

Senate Bill 5379-A, entitled:

#62 "AN ACT to amend the family court act, in relation to orders of disposition"  
(Chapter 531)

#63 "AN ACT to amend the family court act, in relation to orders of protection"  
(Chapter 532)

A P P R O V E D

On May 17, 1979, I established by Executive Order Number 90 the Task Force on Domestic Violence to study the traumatic effects of domestic violence and how our social and legal system could better deal with such violence and its causes.

Among the responsibilities of the Task Force was to submit recommendations for legislation and administrative action so that the tragedy of domestic violence might be addressed. The Task Force established subcommittees to deal with major areas of concern and, with the assistance of Advisory Board members, have made important recommendations.

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Assembly Bill 12123 incorporates some of these recommendations. It amends the Family Court Act, the Domestic Relations Law, the Criminal Procedure Law and other related statutes to clarify and expand provisions for preliminary relief and enforcement of orders of protection. In addition, the bill removes assault in the first degree, a crime which involves the use of a deadly weapon demonstrating intent to disfigure another person seriously and permanently or creating a grave risk of death, from the jurisdiction of the Family Court and places it solely within the jurisdiction of the criminal courts. As the Justice Subcommittee stated in regard to this significant jurisdictional change:

"This exclusion, like the present exclusion of attempted murder, is a public policy statement that serious acts of violence between family members will not be tolerated. Violence in the home is as serious a breach of public order and safety as violence in the streets. Family violence is learned by children who take the violent response into the schools and streets, and later transmit it to their children.

Strengthening of legal sanctions against violence in the home is a step toward stopping it in individual cases, and toward educating the public that violence in the homes is as much a criminal act as violence in a public place."

Senate Bill 5379-A and Assembly Bill 7770-A, Senate Reprint 21039 amend Sections 841 and 842 of the Family Court Act to provide that a respondent placed on probation for commission of a family offense may be required to participate in an educational program and that an order of protection may require any person before the court to pay reasonable counsel fees involved in obtaining or enforcing such order.

Implementation of these bills will be a meaningful step in assisting victims of domestic violence.

The bills are approved.

(Signed) Hugh L. Carey

APPENDIX A

Appendix A contains the legislative memorandum in support of the Governor's Program Bill and the complete text of the omnibus bill as it appears in chapter 530 of the Session Laws of New York, 1980. The bill is the product of several months of negotiations; it retains the substance of the original drafted by the Justice System Sub-committee and adopted unanimously by the entire Task Force on January 18, 1980. The omnibus bill amends the Family Court Act, the Domestic Relations Law, the Judiciary Law, the Criminal Procedure Law, and the Penal Law to clarify and enhance the existing provisions for preliminary relief and enforcement of orders of protection. The bill integrates provisions of these statutes so that each statute has appropriate corresponding provisions.

The Justice System Sub-committee drafted the omnibus bill to attempt to remedy inadequacies in the present system. For example, police in some counties have misread the certificate provisions of Section 168 of the Family Court Act to mean that only an original, certified court order can be the basis for an arrest. This was not the intent of the legislature. The Sub-committee also believed that the certificate requirements were a burden requiring extra paperwork but producing no clear benefits. The criminal court clerks never even had a form called "certificate of order". In sum, the certificate requirement wasted clerks' time in both Family Court and criminal courts.

Another significant change is the removal of Family Court jurisdiction over first degree assaults. Assault first degree is defined in Penal Law section 120.10 as follows:

A person is guilty of assault in the first degree when:

1. With intent to cause serious physical injury to another person, he causes such injury to such person or to a third person by means of a deadly weapon or a dangerous instrument; or
2. With intent to disfigure another person seriously and permanently, or to destroy, amputate or disable permanently a member or organ of his body, he causes such injury to such person or to a third person; or
3. Under circumstances evincing a depraved indifference to human life, he recklessly engages in conduct which creates a grave risk of death to another person, and thereby causes serious physical injury to another person; or
4. In the course of and in furtherance of the commission or attempted commission of a felony or of immediate flight therefrom, he, or another participant if there by any, causes serious physical injury to a person other than one of the participants.

Assault in the first degree is a class C felony.

Under the omnibus bill criminal courts will have exclusive jurisdiction over first degree assaults. The importance of this exclusion, like the present exclusion of murder and attempted murder, as a public policy statement that serious acts of violence between family members will not be tolerated, is examined further in the following legislative memorandum in support of the omnibus bill.

GOVERNOR'S PROGRAM BILL

1980

MEMORANDUM

RE: AN ACT to amend the family court act, the domestic relations law, the judiciary law, the criminal procedure law and the penal law, in relation to family offenses and to repeal certain provisions of the family court act relating thereto

Purpose of the Bill:

To amend the Family Court Act, the Criminal Procedures Law and other related statutes to clarify and expand provisions for preliminary relief and enforcement procedures for victims of domestic violence as recommended by the Governor's Task Force on Domestic Violence and an Advisory Board comprised of State officials appointed by the Governor and legislators appointed by Assembly Speaker Fink and Senate Majority Leader Anderson.

Summary of Provisions of the Bill:

Sections 1-10 of the bill make amendments to the Family Court Act (FCA) as follows:

Section 1 of the bill amends Section 155 of the FCA to provide that a temporary order of protection shall be evidence of the filing of a proper information or petition and that the police may arrest an adult who commits a family offense as defined in Section 812 of the FCA whether or not there has been a previous court proceeding.

Section 2 of the bill amends Section 168 of the FCA to eliminate provision for the issuance of certificates of orders of protection and instead require the clerk of the Family Court to issue a copy of an order of protection or temporary order of protection to a petitioner, respondent or others affected by the order. The presentation of an order or a copy thereof shall constitute authority for a peace officer to arrest a person charged with violating the terms of the order. New provision is made for the filing of an order with appropriate police agencies. In addition, it provides that outstanding, unexpired certificates of orders of protection shall remain effective and may be filed in the same manner as the copies of orders of protection or temporary orders of protection.

Section 3 of the bill repeals Section 842-a of the FCA, which provided for notice of an order of protection. This provision is now contained in Section 168 of the FCA as amended.

Section 4 of the bill adds a new Section 655 to the FCA and provides that the court may enter an order of protection in conjunction with any other order made in a custody proceeding pursuant to Article VI of the Domestic Relations Law.

Section 5 of the bill amends Section 812 of the FCA by removing assault in the first degree as defined in the Penal Law Section 120.10 from the jurisdiction of the Family Court. The Family Court and criminal courts retain concurrent jurisdiction over assault in the second degree and assault in the third degree.

Section 6 of the bill amends Section 812(2) (e) of the FCA by adding a cross-reference to Section 813 of the FCA as amended and described below. Section 812(2) (e) provides that the filing of an accusatory instrument or Family Court petition constitutes a final choice of forum after 72 hours have elapsed.

Section 7 of the bill amends Section 813 of the FCA to provide that, at any time prior to a finding on the petition, a Family Court judge may transfer a matter to a criminal court in the interest of justice, upon consent of the petitioner and notice to the District Attorney, and that the court may simultaneously issue a temporary order of protection.

Section 8 of the bill amends Section 828 of the FCA to provide that the court may issue or extend a temporary order of protection ex parte or on notice simultaneously with the issuance of an arrest warrant.

Section 9 of the bill rennumbers Section 846 of the FCA to Section 846-a.

Section 10 of the bill adds a new Section 846 to the FCA which sets forth procedures to be followed when an order of protection has been violated.

Section 11 of the bill amends the Domestic Relations Law by adding a new Section 240(2) providing for issuance of orders of protection in connection with custody determinations in matrimonial actions.

Section 12 of the bill amends Section 751 of the Judiciary Law to provide that where violation of an order of protection issued by a criminal court results in contempt, imprisonment may not exceed a term of three months.

Section 13 of the bill amends Section 170.55 of the Criminal Procedure Law by adding a new subdivision 3 which permits the court to issue a temporary order of protection in conjunction with an adjournment in contemplation of dismissal.

Section 14 of the bill rennumbers 530.11 of the Criminal Procedure Law to be 530.12 and amends such section by providing that the criminal court may issue a temporary order of protection as a condition of release on bail or an adjournment in contemplation of dismissal. It further provides for the filing of an order of protection or temporary order of protection with appropriate police agencies. In addition, new provision is made so the presentation of a warrant or an order of protection or temporary order of protection or copy thereof to a peace officer shall constitute authority to arrest a person who has violated the terms of such order and bring such person before the court. Further, a peace officer is given authority to arrest without a warrant or order if a person has committed a family offense as defined in Section 530.11 of the Criminal Procedure Act. Punishment for contempt based on a violation of an order of protection or temporary order of protection shall not affect pending criminal action nor reduce or diminish a sentence or conviction for commission of a family offense. Finally, it requires the Chief Administrator of the Courts to promulgate uniform criminal court orders of protection to be used throughout the State.

Section 15 of the bill adds a new Section 530.11 to the Criminal Procedure Law to clarify the areas of concurrent jurisdiction between the criminal court and the Family Court.

Section 16 of the bill adds a new paragraph (j) to Section 65.10(2) of the Penal Law to provide that as a condition of probation or conditional discharge a defendant may be required to observe conditions set forth in an order of protection.

Section 17 of the bill provides for an immediate effective date except for Sections 1-4, 7 and 11, which take effect on the 60th day after the bill shall have become law.

Existing Law:

There are various provisions of the Family Court Act and the Criminal Procedure Law which relate to relief and enforcement procedures for victims of domestic violence. Current provisions of the law provide concurrent jurisdiction of the Family Court and the criminal courts when an assault is committed between family or household members. There is no provision which permits a Family Court judge to issue a temporary order of protection upon transfer of a matter to the criminal court.

Statement in Support of the Bill:

The Governor's Task Force on Domestic Violence was established by Executive Order #90 on May 17, 1979 to study "the traumatic effects of domestic violence and how our social and legal systems can better deal with such violence and its causes." Among its responsibilities, the Task Force was charged with reporting to the Governor and Legislature its recommendations for legislative and administrative action.

Since its creation, the Task Force, aided by an Advisory Board of agency heads and legislators, has focused on issues concerning services, data collection and evaluation, training and the justice system. It has developed various short-range and long-term policy and program proposals. A major portion of its work has been devoted to identifying and correcting lacunae in the present statutory mechanism for handling domestic violence cases.

This bill is the product of that effort. It amends the Criminal Procedure Law and other related statutes to clarify and expand provisions for preliminary relief and enforcement of orders of protection. In addition, the bill removes assault in the first degree, a crime which involves the use of a deadly weapon demonstrating intent to disfigure another person seriously and permanently or creating a grave risk of death, from the jurisdiction of the Family Court and places it solely within the jurisdiction of the criminal courts. As the Task Force's Justice Subcommittee, which did the initial draft of the measure, stated:

"This exclusion, like the present exclusion of attempted murder, is a public policy statement that serious acts of violence between family members will not be tolerated. Violence in the home is as

serious a breach of public order and safety as violence in the streets. Family violence is learned by children who take the violent response into the schools and streets, and later transmit it to their children. Strengthening of legal sanctions against violence in the home is a step toward stopping it in individual cases, and toward educating the public that violence in the home is as much a criminal act as violence in a public place."

Implementation of the bill will be a meaningful step in assisting victims of domestic violence.

LAWS OF NEW YORK, 1980

CHAPTER 530

AN ACT to amend the family court act, the domestic relations law, the judiciary law, the criminal procedure law and the penal law, in relation to family offenses and to repeal certain provisions of the family court act relating thereto

Became a law June 24, 1980, with the approval of the Governor.  
Passed by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred fifty-five of the family court act, as amended by chapter six hundred twenty-eight of the laws of nineteen hundred seventy-eight, is amended to read as follows:

§ 155. Arrested adult. 1. If an adult respondent is arrested under this act when the family court is not in session, he shall be taken to the most accessible magistrate and arraigned before him. The production of a warrant issued by the family court, a certificate of warrant, a copy or a certificate of order of protection or an order of protection or of temporary order of protection shall be evidence of the filing of a proper information or petition, and the magistrate shall thereupon hold such respondent, admit to, fix or accept bail, or parole him for hearing before the family court. All subsequent proceedings shall be held in the family court.

2. If no warrant, order of protection or temporary order of protection has been issued by the family court, whether or not an information or petition has been filed, and an act alleged to be a family offense as defined in section eight hundred twelve of this act is the basis of an arrest, the magistrate shall permit the complainant to file a petition, information or accusatory instrument and for good cause shown, shall thereupon hold such respondent, admit to, fix or accept bail, or parole such respondent for hearing before the family court or appropriate criminal court as the complainant shall choose in accordance with the provisions of section eight hundred twelve of this act.

§ 2. Section one hundred sixty-eight of such act, as amended by chapter six hundred twenty-nine of the laws of nineteen hundred seventy-eight, is amended to read as follows:

§ 168. [Certificate] Notice of order of protection. 1. In any case in which an order of protection or temporary order of protection has been made by the family court, the clerk of the court shall issue a copy of such order to the petitioner and respondent and to any other person affected by the order [a certificate stating that an order of protection has been made by the court concerning such persons and setting forth its terms and requirements]. The presentation of [such certificate,] a copy of an order of protection or temporary order of protection or a warrant or a certification of warrant to any peace officer shall constitute authority for him to [take into custody] arrest a person charged with violating the terms of such order of protection or temporary order of

EXPLANATION—Matter in italics is new; matter in brackets [ ] is old law to be omitted.

CHAP. 530

protection and bring such person before the court and, otherwise, so far as lies within his power, to aid in securing the protection such order was intended to afford, provided, however, that any outstanding, unexpired certificate of order of protection or temporary order of protection shall have the same force and effect as a copy of such order or temporary order.

2. A copy of an order of protection or temporary order of protection shall be filed by the clerk of the court with the sheriff's office or police department in the county in which the petitioner resides, or, if the petitioner resides within a city, with the police department of such city. A copy of such order of protection or temporary order of protection may from time to time be filed by the clerk of the court with any other police department or sheriff's office having jurisdiction of the residence, work place and school of anyone intended to be protected by such order. A copy of the order of protection or temporary order of protection may also be filed by the petitioner with any appropriate police department or sheriff's office having jurisdiction. Any subsequent amendment or revocation of such order shall be filed in the same manner as herein provided. Any outstanding, unexpired certificate or order of protection or temporary order of protection shall be filed in the same manner as a copy of an order of protection or temporary order of protection.

§ 3. Section eight hundred forty-two-a of such act is repealed.

§ 4. Such act is amended by adding a new section six hundred fifty-five to read as follows:

§ 655. Order of protection. The court may make an order of protection in assistance or as a condition of any other order made under this part. The order of protection may set forth reasonable conditions of behavior to be observed for a specific time by any petitioner or any respondent. Such an order may require a petitioner or a respondent

(a) to stay away from the home, the other spouse or the child;

(b) to permit a parent to visit the child at stated periods;

(c) to abstain from offensive conduct against the child or against the other parent or against any person to whom custody of the child is awarded;

(d) to give proper attention to the care of the home;

(e) to refrain from acts of commission or omission that tend to make the home not a proper place for the child.

§ 5. Subdivision one of section eight hundred twelve of such act, as amended by chapter six hundred twenty-eight of the laws of nineteen hundred seventy-eight, is amended to read as follows:

1. The family court and the criminal courts shall have concurrent jurisdiction, over any proceeding concerning acts which would constitute disorderly conduct, harassment, menacing, reckless endangerment, [an] assault in the second degree, assault in the third degree or an attempted assault between spouses or between parent and child or between members of the same family or household. For purposes of this article, "disorderly conduct" includes disorderly conduct not in a public place. For purposes of this article, "members of the same family or household" shall mean the following:

(a) persons related by consanguinity or affinity to the [second] third degree; and

(b) persons legally married to one another.

§ 6. Paragraph (e) of subdivision two of section eight hundred twelve of such act, as amended by chapter six hundred twenty-nine of the laws of nineteen hundred seventy-eight, is amended to read as follows:

(e) That subject to the provisions of section eight hundred thirteen of this article, the filing of such accusatory instrument or family court petition constitutes a final choice of forum after seventy-two hours have elapsed from such filing and bars any subsequent proceeding in an alternative court based on the same offense. However, in the event that a finding by the court on the merits of such complaint or petition occurs before seventy-two hours have elapsed, such finding shall be deemed to constitute a final choice of forum and shall bar any subsequent proceeding in an alternative court based on the same offense;

§ 7. Section eight hundred thirteen of such act, as added by chapter six hundred twenty-eight of the laws of nineteen hundred seventy-eight, is amended to read as follows:

§ 813. Transfer to criminal court. 1. [The] At any time prior to a finding on the petition the court may, with the consent of the petitioner and upon reasonable notice to the district attorney, who shall have an opportunity to be heard, order that any matter which is the subject of a proceeding commenced pursuant to this article be prosecuted as a criminal action in an appropriate criminal court if the court determines that the interests of justice so require.

2. The court may simultaneously with the transfer of any matter to the appropriate criminal court, issue or continue a temporary order of protection which, notwithstanding any other provision of law, shall continue in effect, absent action by the appropriate criminal court pursuant to subdivision three of section 530.12 of the criminal procedure law, until the defendant is arraigned upon an accusatory instrument filed pursuant to this section in such criminal court.

3. Upon the commencement of such criminal action the family court proceeding shall be deemed terminated.

§ 8. Section eight hundred twenty-eight of such act, as amended by chapter four hundred forty-nine of the laws of nineteen hundred seventy-seven, is amended to read as follows:

§ 828. [Preliminary] Temporary order of protection. 1. Upon the filing of a petition under this article, the court for good cause shown may issue a temporary order of protection, which may contain any of the provisions authorized on the making of an order of protection under section eight hundred forty-two.

2. A temporary order of protection is not a finding of wrongdoing.

3. The court may issue or extend a temporary order of protection ex parte or on notice simultaneously with the issuance of a warrant, directing that the respondent be arrested and brought before the court, pursuant to section eight hundred twenty-seven of this article.

§ 9. Section eight hundred forty-six of such act is renumbered section eight hundred forty-six-a.

§ 10. Such act is amended by adding a new section eight hundred forty-six to read as follows:

§ 846. Petition; violation of court order. Proceedings under this part shall be originated by the filing of a petition containing an allegation that the respondent has failed to obey a lawful order of this court.

(a) Persons who may originate proceedings. The original petitioner, or any person who may originate proceedings under section eight hundred twenty-two of this article, may originate a proceeding under this part.

(b) Issuance of summons. Upon the filing of a petition under this part, the court may cause a copy of the petition and summons to be issued requiring the respondent to show cause why respondent should not be dealt with in accordance with section eight hundred forty-six-a of this part. The summons shall include on its face, printed or typewritten in a size equal to at least eight point bold type, a notice warning the respondent that a failure to appear in court may result in immediate arrest, and that, after an appearance in court, a finding that the respondent willfully failed to obey the order may result in commitment to jail for a term not to exceed six months, for contempt of court. The notice shall also advise the respondent of the right to counsel, and the right to assigned counsel, if indigent.

(c) Service of summons. Upon issuance of a summons, the provisions of section eight hundred twenty-six of this article shall apply, except that no order of commitment may be entered upon default in appearance by the respondent if service has been made pursuant to subdivision (b) of such section.

(d) Issuance of warrant. The court may issue a warrant, directing that the respondent be arrested and brought before the court, pursuant to section eight hundred twenty-seven of this article.

§ 11. The opening paragraph of section two hundred forty of the domestic relations law is designated subdivision one and a new subdivision two is added to read as follows:

2. Order of protection. The court may make an order of protection in assistance or as a condition of any other order made under this section. The order of protection may set forth reasonable conditions of behavior to be observed for a specified time by any party. Such an order may require any party:

- (1) to stay away from the home of the child or any other party;
- (2) to permit a parent to visit the child at stated periods;
- (3) to abstain from offensive conduct against the child or against the other parent or against any person to whom custody of the child is awarded;
- (4) to give proper attention to the care of the home; or
- (5) to refrain from acts of commission or omission that tend to make the home not a proper place for the child.

§ 12. Subdivision one of section seven hundred fifty-one of the judiciary law, as amended by chapter four hundred forty of the laws of nineteen hundred seventy-five, is amended to read as follows:

1. Except as provided in subdivisions (2), (3) and (4), punishment for a contempt, specified in section seven hundred and fifty, may be by fine, not exceeding two hundred and fifty dollars, or by imprisonment, not exceeding thirty days, in the jail of the county where the court is sitting, or both, in the discretion of the court. Where the punishment for contempt is based on a violation of an order of protection issued under section 530.12 of the criminal procedure law, imprisonment may be for a term not exceeding three months. Where a person is committed to jail, for the nonpayment of [such] a fine, imposed under this section, he must be discharged at the expiration of thirty days; but where he is also committed for a definite time, the thirty days must be computed from the expiration of the definite time.

Such a contempt, committed in the immediate view and presence of the court, may be punished summarily; when not so committed, the party charged must be notified of the accusation, and have a reasonable time to make a defense.

§ 13. Section 170.55 of the criminal procedure law is amended by adding a new subdivision three to read as follows:

3. *In conjunction with an adjournment in contemplation of dismissal the court may issue a temporary order of protection pursuant to section 530.12 of this chapter, requiring the defendant to observe certain specified conditions of conduct.*

§ 14. Section 530.11 of such law, as added by chapter four hundred forty-nine of the laws of nineteen hundred seventy-seven, subdivision three as amended by chapter six hundred twenty-nine of the laws of nineteen hundred seventy-eight, subdivision four as added by chapter six hundred twenty-eight of the laws of nineteen hundred seventy-eight, is renumbered section 530.12 and as renumbered is amended to read as follows:

§ 530.12 Protection for victims of family offenses.

1. When a criminal action is pending involving a complaint charging disorderly conduct, harassment, menacing, reckless endangerment, any degree of assault, attempted assault or attempted murder between spouses, parent and child, or between members of the same family or household, as defined in section [eight hundred twelve of the family court act] 530.12 of this article, the court, in addition to any other powers conferred upon it by this chapter may issue a temporary order of protection as a condition of a pre-trial release, or as a condition of release on bail or an adjournment in contemplation of dismissal. In addition to any other conditions, such an order may require the defendant:

- (a) to stay away from the home, school, business or place of employment of the family or household member;
- (b) to permit a parent to visit the child at stated periods;
- (c) to abstain from offensive conduct against the child or against the family or household member or against any person to whom custody of the child is awarded;
- (d) to refrain from acts of commission or omission that tend to make the home not a proper place for the family or household member.

2. Notwithstanding any other provision of law, a temporary order of protection issued or continued by a family court pursuant to section eight hundred thirteen of the family court act shall continue in effect, absent action by the appropriate criminal court pursuant to subdivision three of this section, until the defendant is arraigned upon an accusatory instrument filed pursuant to section eight hundred thirteen of the family court act in such criminal court.

3. The court may issue a temporary order of protection ex parte upon the filing of an accusatory instrument and for good cause shown.

4. The court may issue or extend a temporary order of protection ex parte or on notice simultaneously with the issuance of a warrant for the arrest of defendant.

5. Upon conviction of any of the following offenses: disorderly conduct, harassment, menacing, reckless endangerment, any degree of assault, attempted assault or attempted murder between spouses, parent and child, or between members of the same family or household, the court may in addition to any other disposition, including a conditional discharge, enter an order of protection. In addition to any other conditions, such an order may require the defendant:

- (a) to stay away from the home, school, business or place of employment of the family or household member, the other spouse or the child;
- (b) to permit a parent to visit the child at stated periods;

(c) to abstain from offensive conduct against the child or against the family or household member or against any person to whom custody of the child is awarded; or

(d) to refrain from acts of commission or omission that tend to make the home not a proper place for the family or household member.

[3.] 6. A copy [of any order] of an order of protection or a temporary order of protection issued pursuant to subdivision one, two [or], three, four or five of this section [or a certificate thereof] shall be filed by the clerk of the court with the sheriff's office in the county in which the complainant resides, or, if the complainant resides within a city, with the police department of such city. [The court may further order a copy of any such order or certificate, to] A copy of such order of protection or temporary order of protection may from time to time be filed by the clerk of the court with any other police department or sheriff's office having jurisdiction of the residence, work place, and school of anyone intended to be protected by such order. A copy of the order [or a certificate thereof] may also be filed by the complainant at the appropriate police [agency] department or sheriff's office having jurisdiction. Any subsequent amendment or revocation of such order shall be filed in the same manner as herein provided.

[4. An assault, attempted assault or other] 7. A family offense subject to the provisions of this section which occurs subsequent to the issuance of an order of protection under this article shall be deemed a new offense for which the complainant may elect to file a new accusatory instrument or a family court petition.

8. In any proceeding in which an order of protection or temporary order of protection or a warrant has been issued under this section, the clerk of the court shall issue to the complainant and defendant and defense counsel and to any other person affected by the order a copy of the order of protection or temporary order of protection. The presentation of a copy of such order or a warrant to any peace officer shall constitute authority for him to arrest a person who has violated the terms of such order and bring such person before the court and, otherwise, so far as lies within his power, to aid in securing the protection such order was intended to afford.

9. If no warrant, order or temporary order of protection has been issued by the court, and an act alleged to be a family offense as defined in section 530.11 of this chapter is the basis of the arrest, the magistrate shall permit the complainant to file a petition, information or accusatory instrument and for reasonable cause shown, shall thereupon hold such respondent or defendant, admit to, fix or accept bail, or parole him for hearing before the family court or appropriate criminal court as the complainant shall choose in accordance with the provisions of section 530.11 of this chapter.

10. Punishment for contempt based on a violation of an order of protection or temporary order of protection shall not affect a pending criminal action, nor reduce or diminish a sentence upon conviction for the crimes or offenses enumerated in this section.

11. The chief administrator of the courts shall promulgate appropriate uniform temporary orders of protection and orders of protection forms to be used throughout the state.

§ 15. Such law is amended by adding a new section 530.11 to read as follows:

§ 530.11 Jurisdiction.



1. The family court and the criminal courts shall have concurrent jurisdiction over any proceeding concerning acts which would constitute disorderly conduct, harassment, menacing, reckless endangerment, an assault in the second degree or assault in the third degree or an attempted assault between spouses or between parent and child or between members of the same family or household. For purposes of this section, "members of the same family or household" with respect to a proceeding in the criminal courts shall mean the following:

- (a) persons related by consanguinity or affinity to the third degree;
- (b) persons legally married to one another; and
- (c) persons formerly married to one another.

2. The chief administrator of the courts shall designate the appropriate probation officers, warrant officers, sheriffs, police officers, district attorneys or any other law enforcement officials, to inform any petitioner or complainant bringing a proceeding under this section before such proceeding is commenced, of the procedures available for the institution of family offense proceedings, including but not limited to the following:

- (a) That there is concurrent jurisdiction with respect to family offenses in both family court and the criminal courts;
- (b) That a family court proceeding is a civil proceeding and is for the purpose of attempting to keep the family unit intact. That referrals for counseling, or counseling services, are available through probation for this purpose;
- (c) That a proceeding in the criminal courts is for the purpose of prosecution of the offender and can result in a criminal conviction of the offender;
- (d) That a proceeding or action subject to the provisions of this section is initiated at the time of the filing of an accusatory instrument or family court petition, not at the time of arrest, or request for arrest, if any;
- (e) That subject to the provisions of section eight hundred thirteen of the family court act, the filing of such accusatory instrument or family court petition constitutes a final choice of forum after seventy-two hours have elapsed from such filing and bars any subsequent proceeding in an alternative court based on the same offense. However, in the event that a finding by the court on the merits of such a complaint or petition occurs before seventy-two hours have elapsed, such finding shall be deemed to constitute a final choice of forum and shall bar any subsequent proceeding in an alternative court based on the same offense;
- (f) That an arrest may precede the commencement of a family court or a criminal court proceeding, but an arrest is not a requirement for commencing either proceeding.

3. No official or other person designated pursuant to subdivision two of this section shall discourage or prevent any person who wishes to file a petition or sign a complaint from having access to any court for that purpose.

4. The chief administrator of the courts shall prescribe an appropriate form to implement subdivision two of this section.

§ 16. Subdivision two of section 65.10 of the penal law is amended by adding a new paragraph (j) to read as follows:

- (j) Observe certain specified conditions of conduct as set forth in an order of protection issued pursuant to section 530.12 of the criminal procedure law.

§ 17. This act shall take effect immediately, except that sections one through four, seven and eleven shall take effect on the sixtieth day after it shall have become a law.

The Legislature of the }  
STATE OF NEW YORK } ss:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction, and, in accordance with such section is entitled to be read into evidence.

WARREN M. ANDERSON  
Temporary President of the Senate

STANLEY FINK  
Speaker of the Assembly

APPENDIX B

The Governor's Task Force endorsed the legislation in Appendix B; these bills passed both Houses in the 1980 Legislative Session and were signed into law. Each is cited in the recommendations made in this report.

The first provides that the Family Court may order a party found to have committed a family offense to participate in an educational program (similar to courses given to those found guilty of driving while intoxicated) S.5379, A.7776 now FCA §841(c), Chapter 531 of the Session Laws of 1980.

The second provides that a party found to have committed a family offense shall pay the counsel fees and disbursements incurred in obtaining or enforcing an order of protection by the person in whose favor the order of protection was granted, S.21039, A.7770-A. now FCA §842(f), Chapter 532 of the Session Laws of 1980.

Chapter 531 of the 1980 Session Laws  
(S. 5379, A. 7766)

Title of Bill: An ACT to amend  
the family court  
act, in relation  
to orders of  
disposition

PURPOSE OR GENERAL IDEA OF BILL:

This bill amends section 841 of the Family Court Act to authorize a family court judge to direct a respondent found to have committed a family offense to participate in an educational program.

SUMMARY OF SPECIFIC PROVISIONS

(Stated above under "Purpose or General Idea of Bill")

EFFECTS OF PRESENT LAW WHICH THIS BILL WOULD ALTER:

Amended to read as follows: placing the respondent on probation for a period not exceeding one year, and requiring respondent to participate in an educational program and to pay the costs thereof if respondent has the means to do so.

JUSTIFICATION

Mandatory drug and alcohol treatment programs are utilized to divert appropriate cases from the criminal justice system. A mandatory educational program could be a solution to individual cases of spouse abuse by providing the educational experience the offender needs. Often the victim seeks counseling, but finds that the abuser is unwilling to join in any such treatment program. Some states are trying similar alternatives to unsupervised probation. The effectiveness of this alternative is unknown, but it can do no harm and it is not violative of individual rights.

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENT:

There is no fiscal impact because the respondent pays for participation in the program or participates in existing fee-on-ability-to-pay programs where such exist. If successful, participation in the program could avoid repeated court appearances for continued abusive behavior.

EFFECTIVE DATE:

Immediate

LAWS OF NEW YORK, 1980

CHAPTER 531

AN ACT to amend the family court act, in relation to orders of disposition

Became a law June 24, 1980, with the approval of the Governor. Passed by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (c) of section eight hundred forty-one of the family court act, as amended by chapter four hundred forty-nine of the laws of nineteen hundred seventy-seven, is amended to read as follows:

(c) placing the respondent on probation for a period not exceeding one year, and requiring respondent to participate in an educational program and to pay the costs thereof if respondent has the means to do so, provided however that nothing contained herein shall be deemed to require payment of the costs of any such program by the state or any political subdivision thereof; or

§ 2. This act shall take effect immediately.

The Legislature of the STATE OF NEW YORK } ss:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction, and, in accordance with such section is entitled to be read into evidence.

WARREN M. ANDERSON Temporary President of the Senate

STANLEY FINK Speaker of the Assembly

EXPLANATION—Matter in italics is new; matter in brackets [ ] is old law to be omitted.

CHAPTER 532 of the 1980 SESSION LAWS (S.21039, A.7770-A)

Title of Bill: AN ACT to amend the family court act, in relation to order of protection

PURPOSE OR GENERAL IDEA OF BILL:

(See "Summary of Provisions" below)

SUMMARY OF SPECIFIC PROVISIONS:

Amends section 842 of the Family Court Act by adding a new subdivision (f) which provides that the court may order a person subject to an order of protection issued pursuant to family court act section 841 to pay the counsel fees and disbursements of the person who is protected by such order.

EFFECTS OF PRESENT LAW WHICH THIS BILL WOULD ALTER:

(See "Summary of Provisions" above)

JUSTIFICATION:

Family offenses are often perpetrated by the financially responsible spouse against the dependent spouse. The economic dependence is one of the factors which cause victims of spouse abuse to continue living with their abusers. In support proceedings in family court and in matrimonial actions in supreme court the financially responsible spouse is obligated to pay the counsel fees of the dependent spouse. This solution makes it possible for the financially dependent spouse to obtain counsel to defend or to prosecute a support or matrimonial action. The same remedy should be made available in family offense proceedings to eliminate the present unfair situation in which the financially responsible respondent is represented by retained counsel and the indigent petitioner is unable to obtain representation.

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENT:

This bill has no fiscal impact. It may result in a savings of court time through the presence of skilled advocates who focus the court proceeding on the relevant issues only.

EFFECTIVE DATE:

Immediate

LAWS OF NEW YORK, 1980

CHAPTER 532

AN ACT to amend the family court act, in relation to order of protection

Became a law June 24, 1980, with the approval of the Governor.  
Passed by a majority vote, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Section eight hundred forty-two of the family court act is amended by adding a new subdivision (f) to read as follows:  
*(f) to pay the reasonable counsel fees and disbursements involved in obtaining or enforcing the order of the person who is protected by such order if such order is issued or enforced.*  
§ 2. This act shall take effect immediately.

The Legislature of the  
STATE OF NEW YORK } ss:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction, and, in accordance with such section is entitled to be read into evidence.  
WARREN M. ANDERSON  
Temporary President of the Senate

STANLEY FINK  
Speaker of the Assembly

EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.

APPENDIX C

The Governor's Task Force endorsed the legislation which appears on the following pages. These bills are cited in the recommendations made in this report.

Summary pages follow together with the text of each of the bills and the status of each at the close of the 1980 Legislative Session.

Title of Bill: AN ACT to amend the family court act, in relation to assignment of counsel for indigent persons

S. 5380 A. 7771

PURPOSE OR GENERAL IDEA OF BILL:

(Stated below under "Summary of Specific Provisions")

SUMMARY OF SPECIFIC PROVISIONS:

This bill amends section 262 (a) (ii) of the Family Court Act to give indigent petitioners in family offense proceedings under Article 8 of the Family Court Act the same right to court-appointed counsel now granted to respondents in such proceedings.

EFFECTS OF PRESENT LAW WHICH THIS BILL WOULD ALTER:

This bill provides indigent petitioners in family offense proceedings with the same right to court-appointed counsel now given to respondents.

JUSTIFICATION:

Battered spouses who are without financial resources to engage counsel to represent them in family offense proceedings are placed at an unfair disadvantage because indigent respondents have the statutory right to court-appointed counsel compensated pursuant to Article 18-b of the county law. Frequently, a respondent has sufficient means to retain counsel but the petitioner is unable to pay an attorney or obtain free legal services. There is no provision for a financially responsible spouse to pay the counsel fees of a dependent spouse in a family offense proceeding.

The solution to this problem is to provide that court-appointed counsel be equally available to indigent petitioners and respondents. This approach is taken in other subsections of section 262 of the Family Court Act. For example, subsection (a) (iv) provides that all indigent parties in a custody proceeding in family court shall have the right to court-appointed counsel.

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENT:

\$50,000

EFFECTIVE DATE:

Immediate

STATE OF NEW YORK

S. 5380

A. 7771

1979-1980 Regular Sessions

SENATE-ASSEMBLY

May 3, 1979

IN SENATE—Introduced by Sen. PISANI—read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

IN ASSEMBLY—Introduced by COMMITTEE ON RULES—(at request of M. of A. Nadler, Siegel, Kremer, Diggs, Engel, Farrell, Hirsch, Jacobs, Lipschutz, Perone, Pesce, F. M. Sullivan)—read once and referred to the Committee on Judiciary

AN ACT to amend the family court act, in relation to assignment of counsel for indigent persons

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Paragraph (ii) of subdivision (a) of section two hundred sixty-two
2 of the family court act, as added by chapter six hundred eighty-two of the laws
3 of nineteen hundred seventy-five, is amended to read as follows:
4 (ii) the petitioner and the respondent in any proceeding under article eight of
5 this act;
6 § 2. This act shall take effect immediately.

EXPLANATION — Matter in italics is new; matter in brackets [ ] is old law to be omitted.

L.B. 51-797

STATUS AT CLOSE OF 1980 LEGISLATIVE SESSION:

Passed the Senate, but not reported out of Assembly Ways and Means Committee

S. 7942-A      A. 9358-A

Title of Bill: AN ACT to amend  
the family court act,  
in relation to  
providing for expenses  
incurred for medical  
care and treatment with  
respect to the  
conditions set forth in  
an order of protection

PURPOSE OR GENERAL IDEA OF BILL:

To empower the court in family offense proceedings to order the financially responsible spouse to pay for the medical care and treatment of the financially dependent spouse and children.

SUMMARY OF SPECIFIC PROVISIONS:

Amends section 842 of the family court act by adding a new subdivision (e) which provides that the court may order a person subject to an order of protection issued pursuant to the family court act section 841 to pay for the medical care and treatment of the person who is protected by such order. Such payments should be made either directly or by means of medical and health insurance plans.

EFFECTS OF PRESENT LAW WHICH THIS BILL WOULD ALTER:

(See "Summary of Specific Provisions" above)

JUSTIFICATION:

It is only fair and reasonable to expect the guilty party in family offense proceedings to pay for the medical expenses incurred by the party's spouse and/or children as a result of the unlawful abuse. Family offenses are often perpetrated by the financially responsible spouse against the dependent spouse. The economic dependence is one of the factors which cause victims of spouse abuse to continue living with their abusers. In cases where victims of family offenses are on family medical payment plans, such plans are generally in the name of the abuser. When the financially dependent spouse seeks to obtain money for medical care and treatment under these plans, that spouse must rely on the financially responsible spouse to file such claims upon the request of the abused spouse and/or children.

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENT:

None

EFFECTIVE DATE:

30th day after it shall have become a law.

STATE OF NEW YORK

S. 7942-A

A. 9358-A

SENATE-ASSEMBLY

February 27, 1980

IN SENATE--Introduced by Sen. PISANI--read twice and ordered printed, and when printed to be committed to the Committee on Judiciary--committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY--Introduced by M. of A. NADLER, NEWBURGER, DIGGS, JACOBS, LIPSCHUTZ--Multi-Sponsored by M. of A. KREMER, ENGEL, FARRELL, HIRSCH, KOPPELL, PERONE--read once and referred to the Committee on Judiciary--committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the family court act, in relation to providing for expenses incurred for medical care and treatment with respect to the conditions set forth in an order of protection

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Subdivision (e) of section eight hundred forty-two of the
- 2 family court act is relettered subdivision (f) and a new subdivision (e)
- 3 is added to read as follows:
- 4 (e) to provide for expenses incurred for medical care and treatment
- 5 either directly or by means of medical and health insurance;
- 6 § 2. This act shall take effect on the thirtieth day after it shall
- 7 have become a law.

STATUS AT CLOSE OF 1980 LEGISLATIVE SESSION:

Amended twice in the Judiciary Committee; Assembly Calendar 713

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD03924613A

Title of Bill: AN ACT in relation to making an appropriation to the Department of Social Services for the purpose of contracting with the family law unit at Brooklyn Legal Services Corporation B to publish and distribute "A Handbook For Beaten Women"

A. 7625

PURPOSE OF GENERAL IDEA OF BILL:

To fund publication of "A Handbook for Beaten Women," which has been written primarily as an educational tool for the battered woman. This handbook has been widely adopted as a reference and teaching aid by schools, libraries and other public service agencies.

SUMMARY OF SPECIFIC PROVISIONS:

Appropriates \$25,000 to the Crime Victims Compensation Board to contract with Brooklyn Legal Services Corporation B to publish and distribute 85,000 copies of the second edition of this handbook. Order-taking, distribution, bookkeeping and public relations would be handled by this same agency.

EFFECTS OF PRESENT LAW WHICH THIS BILL WOULD ALTER:

(See "Summary of Specific Provisions" above)

JUSTIFICATION:

To date Brooklyn Legal Services Corporation B has published and distributed 85,000 copies of A Handbook for Beaten Women to numerous individuals and organizations. This booklet, written primarily as an educational tool for the individual battered woman, has been widely adopted as a reference and teaching aid by schools and libraries as well as other public service agencies. Demand for this booklet continues unabated. Brooklyn Legal Service Corporation B has become famous for this pamphlet, and, as a result, they have on file thousands of requests from people and organizations throughout the state for the booklet. Thus, the Corporation is the institution which can print the booklet economically and provide the widest possible distribution. Until now, printing and distribution has been financed privately, but these sources are not able to continue to finance publication or distribution of the booklet. Given the gravity of the problem of battered women, the demand for the booklet dealing with this problem, and the unique capabilities of Brooklyn Legal Services Corporation B, the state should fund publication and distribution of the booklet.

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENT:

\$25,000

EFFECTIVE DATE:

Immediately

STATE OF NEW YORK

7625

1979-1980 Regular Sessions

IN ASSEMBLY

April 24, 1979

Introduced by COMMITTEE ON RULES—(at request of M. of A. Nadler, Connelly, Cooke, Diggs, Grannis, Jacobs, Lipschutz, Newurger, F. M. Sullivan)—read once and referred to the Committee on Ways and Means

AN ACT in relation to making an appropriation to the department of social services for the purpose of contracting with the family law unit at Brooklyn legal services corporation B to publish and distribute "A Handbook For Beaten Women"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. The sum of seventeen thousand dollars (\$17,000) or so much
2 thereof as shall be necessary, is hereby appropriated out of any moneys in the
3 state treasury in the general fund to the credit of the state purposes fund, and
4 not otherwise appropriated to the department of social services, domestic
5 violence unit for the purpose of contracting with the family law unit at
6 Brooklyn Legal Services Corporation B to publish and distribute "A Handbook
7 For Beaten Women". Such sum shall be payable on the audit and warrant of the
8 state comptroller on vouchers certified or approved by the commissioner of
9 social services, or his duly designated representative in the manner provided by
10 law.
11 § 2. This act shall take effect immediately.

EXPLANATION — Matter in italics is new; matter in brackets [ ] is old law to be omitted.

LBD9-7-788

STATUS AT CLOSE OF 1980 LEGISLATIVE SESSION:

Passed the Assembly after the Senate had adjourned.

APPENDIX D

The Governor's Task Force on Domestic Violence and its Advisory Board were created on May 17, 1979 by Executive Order Number 90, reproduced in this Appendix. The members of the Task Force and its Advisory Board are appointed by the procedure described in the Order. The Task Force mandate is also established by the Order which sets forth the Task Force's powers and responsibilities.



EXECUTIVE ORDER NO. 90

EXECUTIVE ORDER

In light of the tragic emotional and physical consequences to families of domestic violence and by virtue of the authority vested in me by the Constitution and Laws of the State of New York, I, Hugh L. Carey, Governor of the State of New York, do hereby establish within the Executive Department the Task Force on Domestic Violence.

I. The Task Force is granted the powers and duties set forth below, in order to advise the Governor and Legislature as to the most effective ways for state government to respond to the critical law enforcement and social problems posed by domestic violence. It shall consist of no fewer than 20 members, including at least one person in each of the following categories: a legal aid attorney, representatives of the family and criminal courts, a law enforcement official, a provider of community services to battered spouses, one or more representatives of the state agencies which now provide services to victims of domestic violence, a member of the clergy, a mental health professional familiar with the impact on families of such problems as alcohol and substance abuse, a social worker familiar with the service needs of all family members in a violent situation, and a health care professional as well as persons who have themselves been victims of domestic violence.

The members of the Task Force shall be appointed as follows: two of the members shall be appointed by the Speaker of the Assembly; two by the Temporary President of the Senate; one by the Minority Leader of the Assembly; and one by the Minority Leader of the Senate. The remaining members shall be appointed by the Governor. No members shall be elected public officials. An Advisory Board to the Task Force, comprised of the Commissioners and Directors of State agencies which are involved with the problem of domestic violence, as well as elected public officials, shall also be established.

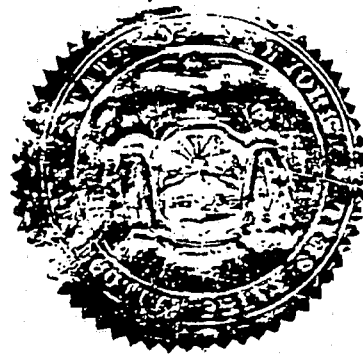
The members of the Task Force shall not receive any salary or other compensation for their services but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties. Reimbursement for such expenses, and compensation for such staff and services as may be deemed necessary by the chairman, shall be made only within the amounts made available therefor and subject to the approval of the Director of the Budget.



II. Among the responsibilities of the Task Force shall be the submission to the Governor and the Legislature no later than January 1, 1980 of a report containing specific recommendations for legislative and administrative actions which should be taken in the following areas related to domestic violence:

1. Information regarding the extent and nature of domestic violence in New York;
2. Accessibility and effectiveness of existing services to New York's victims of domestic violence;
3. Goals, objectives and plans for future services to New York's victims of domestic violence;
4. Effectiveness of the present civil and criminal legal systems in responding to cases of domestic violence;
5. Ability of law enforcement and social service agencies to respond more effectively to cases of domestic violence;
6. Education and information to the public concerning services available to families affected by violence;
7. Intervention to help families under stress so as to prevent incidents of domestic violence.

III. The Task Force may request and shall receive from any department, division, board, bureau, commission or agency of the State such assistance and data as will enable it properly to carry out its powers and duties hereunder.



G I V E N under my hand and the Privy Seal of the State in the City of New York this this seventeenth day of May in the year of our Lord one thousand nine hundred and seventy-nine.

*Hugh S. Carey*

BY THE GOVERNOR:

*James Thompson*  
Secretary to the Governor

APPENDIX E

Agency affiliation of members of the Advisory Board and their designated representatives.

MEMBERS OF THE ADVISORY BOARD FOR THE GOVERNOR'S TASK FORCE

Hon. Gordon M. Ambach, Commissioner  
New York State Department of Education

David Axelrod, M.D., Commissioner  
New York State Department of Health

Hon. Carol Bellamy, former New York State Senator  
President, New York City Council

Hon. Richard A. Berman, Director  
Office of Health Systems Management  
New York State Department of Health

Hon. Barbara B. Blum, Commissioner  
New York State Department of Social Services

Sheila B. Blume, M.D., Director  
Division of Alcoholism & Alcohol Abuse  
New York State Office of Alcoholism & Substance Abuse

Hon. Thomas J. Callanan, Director  
New York State Division of Probation

Hon. William G. Connelie, Superintendent  
New York State Police

Hon. Herbert B. Evans, Chief Administrative Judge  
New York State Office of Court Administration

Hon. Lou Glasse, Director  
New York State Office for the Aging

Hon. Frank A. Hall, Director  
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