

# *Helping St. Louis County Families: A Guide for Court Professionals on the Co-Occurrence of Domestic Violence and Child Abuse/Neglect*



Written by Lauren J. Litton, I.S.P. Consulting, for the St. Louis County Greenbook Initiative. © 2007

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Points of view in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice.*



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## Forward

Traditionally, courts were known as hallowed halls where people came to seek justice and resolution to their disputes. Over the years, the court's role has expanded to become a leader in leveraging needed services, an ally in strengthening system responses, and a partner in examining issues that impact the safety, well-being, and stability of communities.

For the past six years, the Family Court of St. Louis County has participated in a local and federal initiative that focuses on creating cohesive, comprehensive, and supportive responses for families who are experiencing both domestic violence and child abuse/neglect (known as co-occurrence). Along with domestic violence organizations, the Missouri Department of Social Services, and a multitude of key partners, the court has painstakingly discussed and analyzed current policies and procedures in co-occurrence cases and sought ways to address existing challenges.

The Family Court of St. Louis County is committed to ongoing reflection and more importantly to embracing change. This Guide is a symbol of that commitment. The Guide is for attorneys, judges, social service providers, and volunteers working with families in co-occurrence cases within the juvenile arm of the family court. It is not a tool to educate others about the court. Instead, it is intended to serve as a framework to assist court professionals in their approach and handling of co-occurrence cases and to highlight their complexities. It is aimed at raising awareness and ensuring the delivery of responses to families that support the philosophy offered in the publication, *Effective Intervention in Domestic Violence & Child Maltreatment Cases: Guidelines for Policy and Practice*.

The six years has proved to be a time of learning from our colleagues, partners, and community members. Participating in this initiative has reaffirmed my belief that as court professionals we have a duty to continually seek knowledge about relevant issues impacting our community and to strive for the development of meaningful practices that ultimately lead to better outcomes for families dealing with the intersection of domestic violence and child abuse/neglect.

Finally, I would like to thank the individuals who were instrumental in contributing to the development of this Guide. Specifically: Tom DePriest, Jr., Family Court Administrative Judge for his ongoing support of this initiative, Cynthia Harcourt and William Grant for their critical thinking and careful review; William "Kip" Seely for his overall support of the Family Court's involvement in the local initiative and the production of the Guide; and Norma Ellington-Twitty for her leadership and unwavering commitment during the past six years setting our course for change.

Hon. Thea A. Sherry  
Associate Circuit Judge



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*Method is much, technique is much, but inspiration is even more.*

U.S. Justice Benjamin Cardozo

### **Overview:**

#### **Introduction & Purpose of Guide**

There has been a concerted effort to change the way communities and institutions think about and respond to the overlap of child abuse/neglect and domestic violence (known as co-occurrence).<sup>1</sup> Courts have been an integral part of this broad-based reform effort, working in coordination with key systems and community partners to examine how the legal system can improve, implement best practices, and meet the complex needs of families. It is imperative that courts promote a coordinated response and service delivery, ensuring that judges, attorneys, and other professionals involved in co-occurrence cases facilitate safety for domestic violence victims and their children and account for the acts of the battering partner. Numerous lessons have been learned from these reform efforts, including:

- A child’s safety is often linked to the safety of the abused parent;
- While some children are negatively impacted by domestic violence, many are not;
- Well-intentioned systems aimed at protecting children in co-occurrence cases sometimes employ mechanisms that unintentionally re-victimize the abused parent;
- Systems must hold the battering parent/partner responsible, not the victim, for the violence that has occurred in the home;
- Court orders and service recommendations should be consistent;
- Batterers frequently use courts, child protection agencies, service providers, and their own children to maintain power and control over the victimized parent;
- Monitoring and responding to batterer non-compliance in a timely manner is a critical element of accountability;
- It is essential to work with families from a strengths-based perspective;
- Parents and children should have access to qualified and experienced legal representation;
- Systems have not historically identified or labeled the ways in which a victim of domestic violence protects her<sup>2</sup> children as “protective”;

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<sup>1</sup> For the purposes of this document, co-occurrence exists when a child is independently abused or neglected in a family where domestic violence is also occurring. The abuse or neglect may or may not be related to the domestic violence.

<sup>2</sup> Because domestic violence is mostly committed by men against their female partners, this Guide refers to abusers as ‘he’ and victims as ‘she.’ However, the information provided in the Guide should be understood as referring to all victims and abusers, regardless of the gender of either partner. Men can also be victims of domestic violence and intimate partner violence occurs in same-sex relationships.

- Each individual’s experiences must be taken into consideration when assisting families and members within the same family;
- Professionals and systems should make available appropriate services, tailored to the degree of violence and risk, for adult victims leaving, returning to or staying in abusive relationships, for children, and for batterers;
- All professionals involved in co-occurrence cases must be trained on domestic violence and understand its nuances;
- Ongoing collaboration and cross-training are necessary for a coordinated response and effective service delivery;
- Violence post separation is a reality;
- Protection orders do not ensure safety and sometimes decrease it;
- Children should remain in the custody of the abused parent whenever possible;
- Screening for domestic violence must coincide with appropriate services;
- Systems and professionals should preserve victim confidentiality;
- Professionals should be familiar with community resources;
- Reasonable efforts must include cultural, accessible, and available services; and
- Even though domestic violence may be occurring at home, not all families need or want system intervention.

Integrating these lessons learned into practice is not easy. The Family Court of St. Louis County puts forth this Guide to aide in that task. The Family Court of St. Louis County handles both domestic relations and juvenile court proceedings but this Guide is focused on the juvenile arm which is entrusted with child abuse and neglect cases. The court is unique in that it has an investigative and a decision-making role in co-occurrence cases. Thus, the court is comprised of various professionals who must work within their own mandates, yet in coordination, to design responses and interventions that achieve three outcomes for children and families: safety, well-being, and stability.

A small group of thoughtful people could change the world. Indeed, it's the only thing that ever has.

Margaret Mead, Anthropologist

While best practices in co-occurrence cases are continuing to emerge, this Guide has been developed to offer a common framework from which court professionals are to operate and emphasize a commitment of linking adult and child safety and focusing on batterer accountability. The Guide is primarily for judges and attorneys (parent attorneys, guardians *ad litem*, and legal department<sup>3</sup> attorneys), and also offers guidance to court deputy juvenile officers (DJOs), court appointed child advocates (CASAs), and allied professionals.<sup>4</sup> The overall goal is to build internal capacity to respond effectively to families grappling with domestic violence and child abuse by assisting court professionals in their approach and handling of co-occurrence issues and highlighting the complexities of these cases.

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<sup>3</sup> They are also referred to as state attorneys in this Guide as they represent the interests of the state through the county legal department.

<sup>4</sup> Collectively they are called “court professionals” throughout this Guide.



## Guiding Policy

When families are in court because of allegations of child abuse/neglect, a commitment of time and understanding is required by all those involved. Some issues a family faces can be more complicated than others; that is the case with domestic violence. Domestic violence is pervasive in family court caseloads and can impact families in both apparent and subtle ways. The co-occurrence of domestic violence and child abuse/neglect (child abuse)<sup>5</sup> creates a situation where there are several family members at risk, and decisions on how and if to intervene, can be extremely difficult and dangerous. It is essential that court professionals are aware of these issues and subtleties and wherever possible work in coordination in order to protect both the child and the parent who is the victim of the domestic violence.

Historically, communities treated the abuse of a parent and the abuse of a child in the same family as separate problems having little to do with each other. Intervening in intimate partner violence was widely viewed as secondary to the goal of protecting abused children. Philosophical and historical differences regarding the mission and mandates of child welfare institutions and domestic violence agencies created mistrust, tension, and lack of collaboration between fields. The differing opinion about whose safety was paramount led to misconceptions and criticisms, producing disjointed and often contradictory interventions for families. In the end, it was the adult victim of abuse who was left to manage the many mandates of the various systems, even when the mandates conflicted or posed safety risks to her and her children.

A national dialogue around these issues led to the development of the publication, *Effective Intervention in Domestic Violence & Child Maltreatment Cases: Guidelines for Policy and Practice* (more commonly referred to as the *Greenbook*).<sup>6</sup>

Leaders of the community and its institutions should join together to establish responses to domestic violence and child maltreatment that offer meaningful help to families, including protections for all victims from physical harm; adequate social and economic supports for families; and access to services that are respectful, culturally relevant, and responsive to the unique strengths and concerns of families.

Principle I, the *Greenbook*

Focusing on child welfare agencies, domestic violence organizations, courts, and other service providers, the *Greenbook* directs systems to work together in order to create better experiences and outcomes for victims of domestic violence and their children who require system intervention and to seek ways to reduce exposure to these very systems for others. There are 16 principles and 67 recommendations to

guide communities in addressing system response to co-occurrence. The overarching themes of the *Greenbook* are:

- Enhancing safety, well-being, and stability for victims of domestic violence and their children;
- Keeping children whenever possible in the custody of their non-offending parents;
- Holding batterers accountable for the violence;
- Increasing collaboration and cross-training; and
- Treating families with respect and dignity.

<sup>5</sup> For brevity, child abuse and/or neglect is referred to as child abuse throughout this Guide.

<sup>6</sup> Schechter, Susan & Edleson, Jeffrey L. *Effective Intervention in Domestic Violence & Child Maltreatment Cases: Guidelines for Policy and Practice* (NCJFCJ 1999).

The *Greenbook* has been heralded as a best practice guide and has been cited as such in the landmark case *Nicholson v. Williams*<sup>7</sup> (*Nicholson*), a civil rights class-action lawsuit that successfully challenged New York City’s child welfare agency’s practice of removing children from battered mothers for the sole reason that they are victims of domestic violence. The judge’s decision in this case relied heavily upon expert testimony and gave particular weight to the recommendations of the *Greenbook*, incorporating the publication’s recommendations into the opinion. *Nicholson* was the first class action to challenge a state agency’s policy of treating children’s exposure to domestic violence (without other circumstances) as a form of neglect warranting removal. While the decision is tied directly to state law, the case has caused courts and child protection agencies across the country to stop and assess their own practices, using the opinion as a reference on how to respond properly in co-occurrence cases. *Nicholson* underscores the *Greenbook*’s philosophy and states that courts and child protection agencies should:

- Examine the victim’s actions in light of the domestic violence she is experiencing or has experienced;
- Seek to mitigate the harm of removal by examining each case individually and offering appropriate services thereby eliminating the need to remove the child; and
- Understand that not every child exposed to domestic violence is at risk of harm and that system intervention is not always necessary.

Child protection services, domestic violence programs, and juvenile courts must be committed to building internal capacity to respond effectively to families in which dual forms of maltreatment exist.  
Principle V, the *Greenbook*

St. Louis County was one of six communities selected by the U.S. Departments of Justice and Health and Human Services to serve as a demonstration site and implement the principles and recommendations outlined in the *Greenbook*. The St. Louis County *Greenbook* Initiative brought together the Family Court of St. Louis County (Family Court), the St. Louis County Children’s Division of the Missouri Department of Social Services (CD), and more than 25 domestic violence service providers. During a six-year period, committed professionals and community members convened in order to develop and implement policies and procedures that promote cross-system training and collaboration, improve batterer accountability, leverage resources to families, and reduce adult and child re-victimization.

It is important for court professionals to establish a common-practice framework in partnership with other collaborative members, so that there are comprehensive, flexible, and cohesive responses for children in abuse and neglect proceedings. Even with a common framework, differential and flexible responses are necessary to respond to the varied needs of families. A one-size-fits-all approach is ineffective as it discounts an individual’s values, experiences, and culture. The work of the St. Louis County collaborative has served to break down some of the philosophical differences of agencies and systems in order to increase understanding of the complexities involved in co-occurrence cases and to better serve families. This Guide has been developed<sup>8</sup> in order to provide information to court professionals about the overlap of domestic violence and child abuse and to help shape their practice in co-occurrence cases in a manner that complements and supports the *Greenbook* principles.

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<sup>7</sup> The full citation for *Nicholson* appears in the bibliography.

<sup>8</sup> The Guide is comprised of suggested practices from the *Greenbook*, policies already adopted by the Family Court of St. Louis County, and a compilation of numerous other resources published around the country.

## Context:

### **Myths & Realities**

Common misconceptions about domestic violence include:

**Myth: If it was really that bad she would leave the relationship.**

**Reality:** A victim may remain in an abusive relationship for a multitude of reasons, including: survival, terror, economic dependence, love, isolation, religious or cultural beliefs, homelessness, shame, or fear of losing custody of her children. Batterers often prevent their partners from leaving by threatening to harm or kill themselves, the children, and/or the victim. Many victims recognize that if they take steps to leave, they risk the violence escalating against them and their children. In fact, many of the worst injuries and deaths occur when victims of domestic violence try to leave. Victims report that their batterers continue to abuse and harass them after separation. Remaining in or returning to an abusive relationship may be a realistic survival mechanism for some victims.

**Myth: Even if she leaves, she will just find another abusive relationship.**

**Reality:** Victims of domestic violence do not seek out or enjoy being abused. While some victims may become involved with other partners who later begin to abuse them, evidence does not exist that this is common or the experience of a majority of victims. Low self-esteem, childhood victimization, mental illness, and depression do not cause a person to be battered. However, the effects of violence on the survivor may include loss of self-esteem, the use or abuse of mood altering chemicals, post-traumatic stress symptoms, or depression.

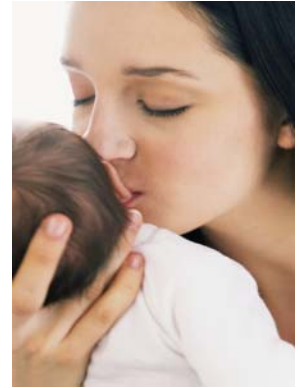
**Myth: Domestic violence is a family dynamic and it is each family member's responsibility to stop the violence.**

**Reality:** Only the perpetrator of the abuse has the ability to stop it. Many victims of domestic violence change their behavior time and time again in the hope that something will stop the abuse; they find that it does not work. Abused parents are often blamed by individuals and systems for the violence in the home. The victim's motivations for not leaving are repeatedly analyzed rather than questioning why the batterer continues to inflict abuse, and why the community tolerates it. Battering is a behavioral choice for which the batterer must be held accountable. Changes in family members' behavior will not cause the batterer to be non-violent.

**Myth: Battered parents care more about their abusers than their children.**

**Reality:** Most battered parents living with violence routinely act in conscious ways to protect their children and to minimize the abuse directed toward them. Numerous things can affect a battered parent's decision-making with regards to the children. Some of these include the overall situation; the timeframe in which she has to consider her options; the possible removal of children; factors impacting the safety of both her and her children; and her knowledge and understanding of child abuse, the systems involved in her family's life, and the available resources.

Parents who are battered often go to great lengths to protect their children from an abusive partner. Research has shown that the abused parent is often the strongest protective factor in the lives of children who are exposed to domestic violence. Battered parents will and often do resist abuse directed toward their children, including withstanding violence perpetuated on themselves, in order to ensure their children's safety. Many victims worry that if they leave, they may pay the price by losing custody of their children. This fear is especially real for victimized parents who have histories of mental health, substance abuse, or are less financially independent or educated than their partners.



**Myth:** BATTERERS ABUSE THEIR PARTNERS BECAUSE OF ALCOHOL OR DRUG ABUSE.

**Reality:** Alcohol or substance abuse does not cause perpetrators of domestic violence to abuse their partners, though it is often offered as an excuse for the violence. Substance abuse may increase the frequency or severity of violent episodes in some cases. Chemical dependency treatment will not stop someone from battering; the two problems need to be dealt with separately, as overlapping yet independent issues.

### Terminology

There are many interchangeable terms associated with domestic violence. The following terms are ones that court professionals may hear most frequently in co-occurrence cases and are used in this Guide.

**Domestic Violence:**

- Family violence
- Intimate partner violence
- Abuse
- Partner/spousal abuse
- Battering
- Domestic abuse
- Violence against women

**Co-occurrence:**

- Overlap
- Intersection
- Multiple issue family
- Child witnessing
- Child exposure

**Victim:**

- Adult victim
- Abused parent
- Battered mother/parent
- Survivor
- Victimized parent
- Non-offending parent
- Mother

**Perpetrator:**

- Abuser
- Batterer
- Offender/offending parent
- Battering/violent parent
- Father/Partner

*See Appendix A for a full glossary of terms.*

## Domestic Violence: Definition, Prevalence & Warning Signs

Domestic violence is a pattern of assaultive and/or coercive behaviors that a person uses against an intimate partner in order to gain power and control in that relationship. The behaviors exerted can include physical, sexual, psychological, emotional and economic abuse. Domestic violence is not about losing control or an inability to manage anger. It is about the misuse or abuse of power to exert control over another human being. The most common forms of domestic violence are:

- Physical assaults/battery.
- Sexual assault, including pressured, coerced, or forced sex.
- Psychological/emotional abuse.
- Threats of violence against the victim, others, or self.
- Destruction of property.
- Abuse of pets.
- Stalking and harassment.
- Intimidation, humiliation, degradation.
- Isolation.
- Economic coercion.
- Use of children to control the adult victim.
- Exploitation or belittlement.
- Threats or use of weapons.
- Denial of access to health care or medication.
- Threats to change, exploit, or expose legal/immigration status.
- Other forms of oppression.

*See Appendix B for a more comprehensive list of ways in which a person is abused and the section on Battering Tactics for information on how children are used to control the victim.*

In Missouri, domestic violence is called abuse. According to RSMo §455.010,<sup>9</sup> abuse includes, but is not limited to, the occurrence of any of the following acts, attempts, or threats against a person by a family or household member:

- (1) assault;
- (2) battery;
- (3) coercion;
- (4) harassment;
- (5) stalking;
- (6) sexual assault; or
- (7) unlawful imprisonment.

For purposes of this statute, a family or household member can be spouses, ex-spouses, adults related by blood or marriage, adults who either currently or formerly cohabited with each other, an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, and adults who have a child in common regardless of whether they have been married or have resided together at any time. Missouri also categorizes domestic violence in the criminal statutes ranging from domestic assault in the first to third degree, depending upon level of violence, weapon used, and harm caused.



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<sup>9</sup> See Appendix F for a list of additional state statutes that are relevant to the co-occurrence discussion.

The number of reports of domestic violence to law enforcement has been on the rise in Missouri for the past four years. In 2006, the number reached 39,850, the highest number since 1999.<sup>10</sup> In 2006 in St. Louis alone, 22,769 individuals received services from domestic violence agencies, 1,753 people stayed in domestic violence shelters, and 2,371 people were denied shelter stay due to lack of availability. This mirrors what is happening around the country. Studies have revealed that:<sup>11</sup>

- Domestic violence is the single most common cause of injury to women, more than auto accidents, rapes and muggings combined.
- Every year three to four million women are beaten by their partners, and every day, an average of three die.
- Women of all races are vulnerable to violence by an intimate partner.
- Nearly 25% of American women report being raped and/or physically assaulted by a current or former spouse, cohabiting partner, or a date at some time in their lifetime.
- Twenty to 30% of visits by women to emergency rooms are the result of battering by their partners.
- More than a quarter of a million women each year experience intimate partner violence during their pregnancy.
- Annually, at least half a million women are stalked by an intimate partner.

Intimate partner violence is primarily a crime against women. National crime survey data shows that men commit 95% of all assaults on female spouses or girlfriends. In 2001, women accounted for 85% of the victims of intimate partner violence and men accounted for approximately 15% of the victims. Women are much more likely than men to be killed by an intimate partner. 40% of all women murdered are killed by their husbands or boyfriends whereas less than 4% of murders of men are from intimate partner abuse.

Ascertaining whether domestic violence is occurring in a relationship is not an exact science. There are some warning signs, although many times these are not visible to the inquiring eye. Court professionals, through interviews, discovery review, and other documentation, may learn about instances of power and control, isolation, intimidation or may be informed about incidents of stalking, the use of weapons, threats of homicide/suicide, as well as other types of abuse. A lack of police incident reports or arrests is not an indication that intimate partner violence has not happened. Law enforcement is rarely involved with families where domestic violence is occurring. It has been suggested that the most lethal and dangerous situations never come to law enforcement or other system attention. Some warning signs of domestic violence are:

- One partner not allowing the other to have guests over to the home when the other partner is not present (this can include family or friends and extend to interviews with attorneys, CASA volunteers, DJOs).
- One partner frequently checks up on the other (by listening in on phone calls, constantly asking about whereabouts, calling a person at work all day, checking a person's car mileage).
- Visible injuries or an attempt to cover/hide injuries.
- One partner putting the other down (name-calling, public or private humiliation, or making the other partner feel crazy).
- One partner threatening to hurt the other partner, or that partner's friends, family members, or pets.
- One partner forcing the other to engage in sexual activities in ways or at times that are uncomfortable.
- Displaying anger in a way that scares others.
- One partner blaming the other for all of the family's problems.
- The use of dominating or intimidating body language.
- Prior convictions for domestic violence-related or other violent offenses.
- A record of one or more 911 calls.

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10 Missouri Coalition Against Domestic and Sexual Violence, Member Program 2006 Service Statistics (2007).

11 The facts appearing in this and the following section of the Guide are frequently quoted in materials relating to domestic violence and co-occurrence and therefore individual citations are not being offered. There are many studies listed in the bibliography and the facts are summarized in *Violence in the Lives of Women and Children: Some Facts*, and in the Family Violence Prevention Fund's publication, *Domestic Violence is a Serious, Widespread Social Problem in America: The Facts: Prevalence of Domestic Violence*.

- Evidence of destruction of property such as holes in walls, broken furniture, or doors and windows that do not latch.
- One partner acting jealous or possessive.
- One partner cutting off utilities or denying access of the telephone to the other.
- Evidence of stalking.
- Evidence of harm or threats of harm to partner or children.
- Prior protection orders.

### Co-Occurrence & Effects of Domestic Violence on Children

For the purposes of this Guide, co-occurrence exists when a child is independently abused or neglected in a family where domestic violence is also occurring. The abuse or neglect may or may not be related to the domestic violence. The fact that there is an intersection between domestic violence and child abuse is undeniable. For example:

- Missouri Department of Social Services reported that in 2005, 4.4% of the families investigated by CD, and 6.7% of the substantiated cases, involved domestic violence;<sup>12</sup>
- Annually, between 3.3 and 10 million children witness domestic violence in the United States;
- Approximately 50% of men who frequently assaulted their wives indicated they also abused their children;
- More than half of the victims of domestic violence reside with children under the age of 12;
- Domestic violence may be the single major precursor to child abuse and neglect fatalities in this country;

Where there is domestic violence in child protection cases, judges should make orders which: a. keep the child and parent victim safe;

1. keep the non-abusive parent and child together whenever possible;
2. hold the perpetrator accountable;
3. identify the service needs of all family members, including all forms of assistance and help for the child; safety, support, and economic stability for the victim; and rehabilitation and accountability for the perpetrator;
4. create clear, detailed visitation guidelines which focus upon safe exchanges and safe environments for visits.

*Recommendation 57, the Greenbook*

- 80-90% of children living in homes with domestic violence are aware of the violence; and
- Children who witness violence suffer greater rates of depression, anxiety, post traumatic stress disorder, alcohol and drug abuse, are at greater risk of entering the juvenile and criminal justice system, and have significantly lower academic achievement.

Domestic violence may appear in a child abuse case in several different ways. The most common ways are: domestic violence was the underlying factor that brought the family to the system's attention and led to the abuse of the child (e.g. the child was physically injured when he/she got in the middle of a fight); the children were abused or neglected in an unrelated manner and during the course of interviews or pendency of the case the fact that domestic violence is occurring in the home has come to the attention of a professional involved in the case; or there is a history of domestic violence between the biological parents who are no longer together but the court notification of the dependency proceedings either reestablishes contact or provides further access for the battering parent to the child and abused parent.

<sup>12</sup> Missouri Department of Social Services, Children's Division Missouri Child Abuse and Neglect Calendar Year 2005 Annual Report (June 2006).

Children are resilient, yet growing up in a violent home can affect a child's life and development.<sup>13</sup> There are an abundance of studies available that provide documentation of various types of problems experienced by children who have been exposed to domestic violence. The level of risk in each family varies and domestic violence can have a multitude of complicated effects on children. Symptoms developed by children who have witnessed domestic violence are both internalized and externalized and may include:<sup>14</sup>

- Sleep Disorders
- Anxiety
- Bedwetting
- Physical Ailments
- Post Traumatic Stress
- Aggressive Behavior
- Delinquency
- Depression
- Learning Problems
- Isolation
- Truancy



In spite of this, we know that when properly identified and addressed, the effects of domestic violence on children can be mitigated.<sup>15</sup> Many children have developed sophisticated strategies to protect themselves from being physically and emotionally injured. There is not one typical way a child responds to intimate partner violence. Each child has a distinct reaction and even children within the same family can be affected differently. The way in which a child responds to the violence is based on a combination of their age, gender, temperament, level of involvement in the violence, interpretation of the experience, coping skills, and availability of support systems (friends, relatives, and other adults). While the impact of domestic violence on children is real and often palpable, a surprising number of children show significant resiliency in the face of this violence. Research demonstrates a critical connection between resiliency and a strong relationship between the child and the victimized parent. Other components of resiliency include extended support through community, family, and cultural connections and opportunities for success through recreation, school, or other activities. Accounting for resilience is imperative and should be incorporated into a risk assessment in order to determine the most effective and least harmful interventions.

Co-occurrence is unique and warrants special consideration because there is more than one person's safety at stake and interventions into a family can put the children and victimized parent in harm's way. Whenever possible, strategies should not be employed that compromise the vulnerability of one family member at the expense of another. The underpinning of the *Greenbook* is that the safety of the child can be promoted by enhancing the safety of the adult victim. Court professionals should focus on what is safe and appropriate for the child given the nature of the alleged child abuse or neglect the child has suffered, the age of the child, the child's relationship with each parent, and the history of intimate partner violence.

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13 Edleson, Jeffrey, L., The Overlap Between Child Maltreatment and Woman Battering, *Violence Against Women* 5(2), pp. 134-154 (1999).

14 See Appendix C for a more comprehensive list of potential effects/behaviors exhibited by children.

15 Not all children are adversely affected by exposure to domestic violence. One study found that 31% of children exhibited no negative internalizing or externalizing behaviors (Grych, et al. 2000).



An often overlooked impact on children is the influence that the batterer exerts over the child's relationship with the victimized parent. Victims of domestic violence may be undermined in their parenting role. The battering can corrode the battered parent's relationship with her children. Perpetrators of domestic violence may thwart their former partner's parenting in ways both obvious and insidious. A batterer may: involve the children in further controlling or harming the victim (e.g. have the children monitor the victimized parent); sabotage the other parent's authority through constant criticism or negative remarks; engage in activities with the children that the abused parent has forbidden; destroy the children's belongings when the abused parent counters his authority; or tell the children that the victimized parent does not love or want them.



Judges, attorneys, and other court professionals should not be surprised if they encounter children who have a closer bond with the battering parent than with the abused parent.<sup>16</sup> Children may have adopted the philosophies that support intimate partner violence and may begin to model similar behaviors.<sup>17</sup> For example, they blame the victimized parent for the abuse and problems in the family, use violence to resolve conflicts, or inflict abuse (emotional or physical) on the victimized parent or siblings. Ideally, each child should be referred to an

expert in domestic violence and/or trauma who can determine what supportive services are needed to help the child cope with the violence that has occurred in the family. There are no existing tools that have been proven to adequately measure a child's exposure to adult domestic violence.<sup>18</sup> Adaptations of other known tests vary greatly and leave the field with no standard method of measuring prevalence or individual incidents of exposure. When ordering or incorporating child assessments and counseling into a service plan,<sup>19</sup> it is recommended that:<sup>20</sup>

- Courts and social service providers only refer to mental health professionals who use a model of mental health assessment and treatment that combines a thorough knowledge of early childhood development, trauma, and the effects of domestic violence on all family members;
- Mental health providers work collaboratively with domestic violence advocates; community-based culturally-specific services, and court professionals on behalf of children and families; and
- Courts and social service providers ensure that children and non-offending parent are offered a range of services, like individual assessment and treatment, support groups, and educational materials, recognizing that children are affected differently by exposure to violence.

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16 Children can experience “traumatic bonding” with a parent who abuses the child or other parent, forming unusually strong but unhealthy ties to a batterer.

17 Hart, Barbara, Barbara J. Hart's Collected Writings, posted on Minnesota Center Against Violence and Abuse and Edleson, Jeffrey L., et al., Parenting in the Context of Domestic Violence, Judicial Council of California (2003).

18 Edleson, Jeffrey L., et al, Assessing Child Exposure to Adult Domestic Violence, Children and Youth Services Review, University of Minnesota (in press).

19 For purposes of this Guide, the phrase “service plan” applies to both family plans for change and service plans.

20 Groves, Betsy McAlister & Fox, Kenneth, Helping Young Children Affected by Domestic Violence: The Role of Pediatric Health Settings, Early Childhood, Domestic Violence, and Poverty: Helping Young Children and Their Families - Paper #1, School of Social Work, University of Iowa (Susan Schechter, ed. January 2004).

Domestic violence is a risk factor for children but not all families experiencing domestic violence should be referred to CD, nor should CD or DJOs respond to all reports of domestic violence. Court and social service professionals must examine factors that can lead to a child safely remaining with the family or the battered parent. Some of these factors may include whether the caregiver demonstrates protective capacities; the children show minimal behavioral or emotional effects; the children have formed a relationship with a supportive adult; an adequate safety plan is in place for the children; and the violence is not currently escalating.

### **Post-Separation Violence & Battering Tactics**

Post-separation violence is common in intimate partner violence situations and separation can serve as an impetus for increased or a renewal of abuse.<sup>21</sup>



Systems, service providers, and the community must be ready to address the ongoing possibility of harm that exists for victims of domestic violence when they are no longer residing or involved with their abusive partner. Victims have reported that after separation, their former partners have stalked, harassed, verbally and emotionally abused, beaten, and sexually assaulted them. Thus, the time during which a victim is pursuing a protection order or a divorce, or taking other steps to extricate from an abusive relationship is an extremely dangerous period. After separation, children remain the link between the battering and victimized parent. Custody

and visitation arrangements are potentially dangerous for both the abused parent and children. Post-separation acts of violence are not solely directed toward the former partner. Other targets commonly include children, the victim's new partner, and individuals identified as aligning with the victim.

The legal system is effectively used by batterers as a way to exert and maintain control over a victim through continual litigation on child custody and visitation issues. Litigation is an opportunity to reassert the control batterers feel themselves losing as the relationship ends. Batterers can attempt to intimidate their partners by threatening to take the children away (for example, by making false reports to CD, kidnapping, or maintaining ongoing litigation around custody or parent-child contact).<sup>22</sup> Countering such actions can be financially devastating for victims. The battering parent may use the following tactics (many which involve the children) in order to try to retain power and control over the victimized parent:

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21 Bancroft, Lundy & Silverman, Jay, *The Batterer as Parent: Addressing the Impact of Domestic Violence on Family Dynamics* 1, 99 (2002); Jaffe, Peter, et al., *Common Misconception in Addressing Domestic Violence in Child Custody Disputes*, *Juvenile and Family Court Journal* 57, 59 (NCJFCJ Fall 2003); and Bureau of Justice Statistics Special Report: *Violence Against Women: Estimates from the Redesigned Survey* (NCJ-154348) 4 (August 1995).

22 Batterers are more likely than nonviolent parents to seek custody of their children. Cynthia Grover Hastings, *Letting Down their Guard: What Guardians ad Litem Should Know about Domestic Violence in Child Custody Disputes*, 24 *Boston College Third World Law Journal* 283 (2004); Adams, David, *Identifying the Assaultive Husband in Court: You Be the Judge*, *Boston Beacon Journal*, July/Aug. 1989; and Cuthbert, Carrie, et al., *Battered Mothers Speak Out: A Human Rights Report on Domestic Violence and Child Custody in the Massachusetts Family Courts*, Women's Rights Network (2002).

### *Related to Undermining Parenting*

- Telling the children that they cannot be a family because of the victim.
- Telling the children that the victimized parent is an alcoholic, addict, or mentally ill.
- Sabotaging the victim parent's rules for the children.
- Telling the children that the abused parent is to blame for the violence.
- Getting the children to take his side.
- Yelling at the victim when the children "misbehave."

### *Related to Child Visitation*

- Keeping the children longer than agreed.
- Threatening to abduct the children.
- Showing up unexpectedly to see the children.
- Picking the children up at school without informing the abused parent beforehand.
- Showering the children with gifts during visits.
- Changing visitation plans without notice.
- Not coming to see the children and blaming the victim.
- Harassing her during exchanges.

### *Using the Children*

- Calling the victim constantly under the guise of talking to or about the children.
- Asking the children what the victimized parent is doing and who she is seeing.
- Threatening to take custody away from the victim if she does not agree to reconcile.
- Battering or threatening to hurt or kill the victimized parent in front of the children.
- Telling the victimized parent that no one will believe her, everyone will think she is crazy, and she will lose custody of the children.



### *Related to Children Generally*

- Keeping court cases active by frequent filings.
- Physically abusing the children and ordering them not to tell their mother.
- Abusing his new partner in front of the children.
- Not permitting the abused parent access to proper health care for the children.
- Driving recklessly with the children and/or the victim in the car.
- Abusing drugs/alcohol in front of the children.
- Withholding child support or quitting a job or remaining underemployed in order to avoid paying child support.
- Recruiting relatives to speak negatively about the victim to the children.

### *Other*

- Criticizing, assaulting, or threatening the victim's new partner.
- Stalking the victim, children, and her friends/family.
- Threatening to commit suicide.
- Abusing or killing the family pets.
- Threatening to call the police to have her arrested.

Domestic violence is about power and control. Batterers are able to decide when, where and how they are going to inflict abuse. This means that many professionals will never see the violent side of an individual. Professionals regularly report that men who batter are charming in their interactions and are able to manipulate situations in their favor. As systems and professionals become involved with a family, the abusive partner may look for ways to get these individuals to collude with him against the victim. In some cases, perpetrators actively employ the legal system as a means of maintaining ongoing control of their victims. Simultaneous misuse of the child protection system is not uncommon in these cases; excessive court filings or reports to CD on minimal grounds may indicate the tendency to use official systems for harassment purposes. Hence, courts and professionals can inadvertently become tools for batterers to continue their abusive behavior. Judges, attorneys, DJOs, CASA volunteers, and social service providers may find that batterers are:

- Presenting as the victim.
- Using statements of remorse or guilt as a way to avoid consequences.
- Alleging the partner is an alcoholic or chemically dependent.
- Alleging the partner has mental illness (e.g. she is crazy).
- Describing the protective actions by the victim (e.g. leaving or calling police) as ways to make him look bad, get a leg up in court, or hurt him (e.g. retribution for infidelity).
- Presenting as the more stable and calm partner (e.g. using her anger about the situation as an example while on the other hand, he is extremely cooperative).
- Denying or minimizing abuse (e.g. she bruises easily or I just pushed her a little).
- Blaming the victim for his actions (she knew she wasn't supposed to do that).
- Avoiding responsibility by blaming alcohol/drugs, financial/marital problems, or other stress-related issues.
- Presenting himself as the provider for the family, both financially and emotionally.
- Presenting the victim's behavior in a negative way in order to shift focus off of him.
- Stating that the victim parent has been the barrier to resolving the family's problems (e.g. she won't go to counseling) and all he wants to do is be a good father and keep the family together.
- Presenting his behaviors as being misunderstood (e.g. he is protective of her).

### **Barriers to Leaving**

Everyone deserves to live without violence. Many victims of domestic violence simply want the violence to stop. In the face of abuse and assaults, a battered parent often confronts difficult decisions. How will she protect herself and her children from the physical dangers posed by her partner? How will she provide for her children? How will she manage the complex, and for many families, enduring relationship with the batterer over time? The barriers to escaping may be invisible to those outside of her world, but they are extremely powerful. Victims of domestic violence stay in abusive relationships for many reasons, some are:

- Love.
- Belief that the violence is her fault.
- Hope that he will change.
- Poverty and economic dependence (including lack of safe housing, loss of income and ability to provide for the children, loss of employment due to domestic violence, lack of job skills, and loss of health insurance benefits for children).
- Social and geographic isolation.
- Fear of further violence (she may have made attempts to leave before and there was an escalation in the abuse).
- Ongoing intimidation, stalking or coercion.
- Use of weapons or following through on threats (she knows that he is very dangerous and will be in more harm if she leaves).
- Language barriers.
- Protection of the children (she believes that if she leaves he will kill her or the children or she won't be able to protect them if he gets unsupervised contact).
- Lack of knowledge about resources and how to access help.
- Negative experiences with systems and friends (she may have tried to talk to others about what is happening in the home and received unhelpful or judgmental responses. Or, if there was prior system involvement, the police and court may have failed to hold the perpetrator accountable for violence, reinforcing the messages the abuser has sent her about his ability to remain above the law).
- Emotional dependence (conflicting feelings of fear, shame, bewilderment, hope that things will improve, and a commitment to the relationship).
- Lack of confidence (after living with an abusive partner, the self-esteem of most women has been eroded to the point where they no longer have confidence in themselves, including their ability to survive alone, and may believe that there are no other options).
- Her belief system, fear of bringing shame on her family or cultural group (she was brought up to believe that real fulfillment comes from being a wife and mother or that divorce is wrong. She may even be encouraged to stay in the relationship by family members or religious leaders).
- Legal status (if a woman is undocumented she may be afraid of identifying herself to authorities for fear of deportation. Her abuser may have withheld filing the proper paper work in order to keep her under his control. If she is an immigrant/refugee she may not be aware of her legal options and believes she will have no way to support herself and her children).

Victims of domestic violence may face additional barriers in accessing services if they are members of a



group typically underserved by traditional agencies. Legal and child protection systems have not been as responsive to victims whose primary language is not English or victims with disabilities. Identifying culturally appropriate and accessible services is a crucial part of creating safety mechanisms and effective interventions for families.

### **Decision-Making & Protective Strategies of Victims of Domestic Violence**

The most customary response by the community, law enforcement, the courts and social service agencies to domestic violence is requesting that the victim leave the abuser.<sup>23</sup> The inference is that stopping the abuse is her responsibility. It not only places the focus of interventions on the victim's behavior, but also assumes:

- 1) That leaving is a viable solution;
- 2) That ending the relationship is what the victim desires;
- 3) That ending the relationship is in the child's best interest; and
- 4) That leaving will stop the violence.

Usually, one or more of these assumptions is not true.

A battered parent involved in the Family Court of St. Louis County will have to manage complex and conflicting demands. The victim may have to weigh the threat of the removal of her children against the potential retaliation the perpetrator may exact if she complies with the requirements of a service plan. She may hesitate to participate with an assessment for fear that neglect will be substantiated against her. The batterer may be working to undermine her efforts to comply with a service plan. Not knowing who her allies are, the victimized parent may not offer up all of the information she know, leading the court or others involved with the family to believe she is lying or trying to protect the perpetrator. For a battered parent there may be no clear decision to make or all choices may seem dangerous.

Victims of domestic violence may attempt to protect themselves through a variety of mechanisms short of leaving the abusive relationship. Involvement with CD or a formal case in juvenile court can lead battered mothers to become vulnerable to: further manipulation from their batterers; depression and feelings of shame; termination of parental rights; economic hardship; pressure to compromise on access to children; and the feeling that they must choose whose safety to prioritize – their children's or their own – as they make decisions. Attorneys for battered mothers must be ready to assist them in understanding how best to work with CD and DJOs so as to minimize the above issues and keep the safety of battered women and their children implicitly linked. Thus, victims of domestic violence are often in survival mode. Without a sufficient understanding of domestic violence, volunteers and professionals may rely on their subjective interpretations of a battered parent's demeanor. Historically, adult victims' decisions or behaviors have been misinterpreted as instability, apathy, uncooperativeness, or even vindictiveness. A victim's choice not to leave a relationship or to use formal system assistance has been misinterpreted as failing to want to protect or care for her child. It is well documented that

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<sup>23</sup> Because law enforcement as primary responders are key to safety, the St. Louis County Domestic and Family Violence Council helped develop Adult Abuse Procedures for local law enforcement and a Model Code on Domestic and Family Violence. The Model Code was crafted to facilitate both the uniformity and quality of justice for victims and perpetrators of domestic and family violence throughout the area.

separation does not equal safety and her willingness to separate from the abusive parent cannot function as a barometer of her willingness to protect her child.

Victims of domestic violence are usually in the best position to determine what measures will increase or decrease their safety and the safety of their children. It is important that this determination and autonomy be valued and respected. Supportive, non-coercive, and empowering interventions, that promote the safety of both the adult victim and their children, should be incorporated into child abuse and neglect proceedings. It is in the child's best interest that court professionals support the victimized parent and help heal the child/mother bond. It is important to work with battered mothers as part of the team to help children heal in addition to providing education about the effects of domestic violence on the children.<sup>24</sup> When a battered parent is protected from abuse, she then is better able to protect her abused child. Even if the abusive relationship dissolves, frequently victims want their children to have a relationship with their fathers if it can be done in a way that does not compromise their own safety or the safety of their children.

What course of action constitutes a parent's exercise of a "minimum degree of care" may include such considerations as: risks attendant to leaving, if the batterer has threatened to kill her if she does; risks attendant to staying and suffering continued abuse; risks attendant to seeking assistance through government channels, potentially increasing the danger to herself and her children; risks attendant to criminal prosecution against the abuser; and risks attendant to relocation. Whether a particular mother in these circumstances has actually failed to exercise a minimum degree of care is necessarily dependent on facts such as the severity and frequency of the violence, and the resources and options available to her.

Appellate Opinion, *Nicholson v. Scoppetta, et al.*, No. 113. 2004 N.Y. Lexis 3490 (N.Y. October 26, 2004).



Recognizing a battered parent's survival strategies and developing recommendations and service plans that build on those strategies will increase the likelihood of success for protecting children. It is imperative to acknowledge the protective behaviors of battered parents that may be overlooked or viewed in other circumstances as neglectful. The fear on the part of many battered parents of being blamed for the violence, or having disclosure of the violence lead to further state intervention may cause domestic violence to be identified late in the progression of a dependency case. Therefore, it is important to consider the history of abuse and the abused parent's efforts to manage existing safety threats and prevent additional safety threats to the children from arising. The following examples are ways an adult victim may try to protect herself and her children:

- Fighting back and defying perpetrator (could have led to her arrest).
- Trying to improve the relationship with her partner.
- Sending the children away from the home.
- Pleasing and placating the perpetrator, complying with demands.
- Remaining silent and not telling anyone about the violence for fear of making it worse.
- Calling the police, seeking help from family members, obtaining a protection order, going to a shelter, or trying to find help for the perpetrator.
- Dropping the protection order or withdrawing from help.
- Learning to be "devious" as a way to survive.
- Encouraging the perpetrator to drink so he'll pass out and not hurt anyone.

<sup>24</sup> Cunningham, Alison, Principles of Working with Mothers, PowerPoint Presentation, Centre for Children & Families in the Justice System (May 13, 2005).

- Leaving or returning to the relationship to try to make things better.
- Enduring a beating or having unwanted sex to keep the batterer from attacking the children.
- Establishing safety plans with her children (see later discussion about safety planning).
- Avoiding the perpetrator (e.g. working separate shifts).
- Reasoning with the perpetrator and expressing disapproval of his behavior.
- Drinking and using drugs to numb the pain.
- Lying about the perpetrator's criminal activity or child abuse so that he will not further hurt the victim or the children

Even with intervention, some families will want and choose to remain together. Court professionals will be challenged in these situations to consider options that keep children safe within that family dynamic, if at all possible. It is recommended that when both an adult victim and perpetrator have independently indicated that it is their intent to work together to rebuild their family, that this is discussed during case staffings and that strategies be used that do not punish a family for pursuing this option. Attorneys for battered mothers and children should work closely with their clients to create safety plans that attend to potential risks when and if the batterer lives in the home.

## Practice Considerations, Resources, & Related Issues:

Safety and accountability are key elements for court professionals when information gathering or sharing (including filing motions and reports), creating service plans, crafting court orders, delivering services, and monitoring compliance. Careful examination must be made of all of these aspects of case handling so that neither the safety of the child nor the adult victim is compromised.

### **Confidentiality & Information Sharing**

When courts and agencies exchange information concerning family members, the safety and privacy concerns of all parties must be balanced carefully with the need for access to such potentially harmful information. Examination of how safety and confidentiality are intertwined must occur in each individual case. Attorneys, DJOs, and CASA volunteers gather and review information from various sources in order to obtain a comprehensive view of the factors that may be impacting the children and their parents. If revealed, this information can be at a minimum embarrassing to the family; at a maximum make both the children and adult victim vulnerable to further harm by the batterer.

Court professionals should work in collaboration to determine how they will handle cases when they need to share information with the court but doing so could compromise the safety of a family member.

It is also important for court professionals to explain policies and procedures around confidentiality before speaking to anyone involved in the case. This is even more critical if the conversation does not hold a confidential status and the shared information could become part of the basis of a report to CD about potential abuse or neglect or be shared with the court or other court professionals.

In order to preserve safety, **identifying information should be removed from reports and court documents**. Court professionals can become susceptible to the manipulation of batterers or inadvertently become agents of harm when the information released jeopardizes the safety, autonomy, and stability of the victim parent and children. There is a litany of types of information that can put a battered woman and her children at risk, such as documentation about her job, where she lives, contact numbers and names of friends, details of a safety plan, updated photographs, details about her automobile (license plate, make and model), sharing that she is in a new relationship, that she is seeking counseling, comments about the children taken out of context, information about where the children go to school or after school activities, or that the adult victim is thinking of moving. If there is information to be released that could put either the battered mother or her child at risk, the court professional should alert the victim to the disclosure in advance, so that she may take whatever safety precautions are warranted and available. **Judges should be notified immediately if a child or victimized parent believes that there may be harm from public disclosure** and make an immediate determination whether the potential information identifies risks that should be promptly addressed, or whether disclosure may create risks that should be promptly guarded against.

When making decisions and policies about information disclosure, juvenile courts and child protection agencies should balance (a) the need for information required to prove the occurrence of child maltreatment and to keep children safe with (b) the need of battered women to keep information confidential in order to maintain and plan effectively for their safety.

Principle VI, the *Greenbook*



Court professionals should be familiar with the legal mandates that impact confidentiality and information sharing. A few to be aware of include:

- Guardians *ad litem* (GALs) have the authority by statute to obtain records and information regarding the child and others involved in a co-occurrence case. RSMo §210.160.2. Keeping the information confidential is a must according to Missouri state standards.<sup>25</sup>
- **Those working at domestic violence shelters have a privilege** pursuant to RSMo §455.220. To qualify for funding, any person employed by or volunteering services to a shelter for victims of domestic violence, shall be incompetent to testify concerning any confidential information, unless the confidentiality requirement is waived in writing by the individual served by the shelter. This includes any information that would identify individuals served by the shelter or records that are



directly related to the advocacy services provided to such individuals. The confidentiality requirement arises not within the context of a protected relationship, such as attorney and client, but within a context where confidentiality is essential to curtail an imminent threat of violence. The confidentiality requirements apply to all shelter workers or volunteers and are not contingent upon a shelter worker having any contact or communication with the resident.

This privilege was upheld and explained in *State ex rel. Hope House, Inc., v. Merrigan*,<sup>26</sup> which surrounded a DJO compelling the release of shelter records in a child abuse proceeding. The court held that the shelter is prohibited from releasing any information that "would identify" the domestic violence victim. This encompasses an array of potentially identifying information such as: former residences, place of employment, identity of the abuser, physical description of the resident, types of services received, and history of violence. The confidentiality requirements may not be waived at any time except at the option of the victim when testimony is ordered. RSMo §455.220.2.

- Psychologists, mental health professionals, social workers, juvenile officers, law enforcement officials, and other persons with responsibility for the care of children are mandatory reporters of child abuse or neglect. RSMo §§ 210.115; 568.110; 352.400. Any legally recognized privileged communication, except that between attorney and client or involving communications made to a minister or clergyperson, shall not apply to situations involving known or suspected child abuse or neglect and shall not constitute grounds for failure to report. RSMo § 210.140. Domestic violence shelter workers are not mandatory reporters according to the *Hope House* opinion.

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25 Missouri Juvenile Justice Association, Standards with Comments for Guardians ad Litem in Missouri Juvenile and Family Court Matters, Missouri Supreme Court (1996).

26 No. 85638, Circuit Court Jackson County (Mo. banc, April 13, 2004).

- **A DJO has an affirmative duty to seek to protect the address of a battered parent when she is residing in a shelter or other location due to incidents of domestic violence.** According to the Family Court’s policies and procedures, the DJO is to provide written notification to the legal department at the time of filing a petition/motion that the parent is a victim of domestic violence and that due to safety concerns her address must be kept confidential. This is to prompt the proper legal procedural response. For example, the clerk’s office should not issue a summons with the battered parent’s address on it. The DJO and legal department attorney should make a request on behalf of a battered mother when she can not be reached to obtain a waiver of service of summons from her.
- The court may order in domestic relations cases that the address of either the victimized parent or child be removed from school records if the court has determined that the non-custodial parent has abused either the child or the other parent. §RSMo 452.376
- All information provided at any family support team meeting held in relation to the removal of a child from the child's home is confidential; except that parents have the right to record the meeting or a party can sign a waiver of confidentiality. RSMo §210.147

Child protection services and juvenile courts should support the principle and policy goal of privileged communication protections for battered women.

Recommendation 14, the *Greenbook*

Taking all this into consideration, best practices related to information sharing and confidentiality requires that court professionals working with co-occurrence cases:

- Know, respect, and abide by legal mandates around confidentiality and privilege.
- Inform victims and children of exceptions to confidentiality and mandatory reporting requirements.
- Screen all documents for confidential information such as addresses, before sharing or submitting to court.
- Seek ways within the justice system to afford confidentiality of records and information if safety might be compromised by release of documentation (separate hearings for parties, in camera hearings, etc).
- Work in coordination to determine what courses of action are needed to protect safety.
- Listen to the victimized parent’s concerns about the release of a particular piece of information.
- Proceed cautiously in obtaining and maintaining information about the family.
- Inform the court that disclosure of information may place a child or victim at risk.
- Create separate service plans for each party and refrain from sharing the contents of the battered parent’s service plan with the offender.
- Exclude safety plans from client and court files.
- Facilitate communication between a victimized parent and a domestic violence advocate.
- Create file management systems that ensure confidentiality.

## Information Gathering & Screening

Best practice is to screen all abuse and neglect cases for domestic violence as early as possible. The goal is not to add another issue to the service plan, but instead to bring greater understanding to issues that can impact the delivery and success of services for the family. How screening is conducted and information gathered can make a difference as to whether or not a victim feels empowered to disclose and/or get help. Repeated opportunities to disclose are essential as the victim begins to build trust and confidence in the fact that you care and have resources that can help. Collateral sources like police or medical reports, court orders, 911 calls, or other documents should be examined for an indication of domestic violence. Through screening, court professionals can also assess who is the victimized and who is the battering parent. As described, batterers often claim the victim has mental health, substance abuse, or anger management issues as a way to keep the focus on her. DJOs are required to use a screening tool to assess for domestic violence with every family. If a DJO believes that a parent may be a victim of domestic violence, the parent shall be referred to the family court domestic violence resource specialist.



Even though DJOs are screening for domestic violence in dependency cases, court professionals (especially attorneys) must be ready to engage in conversations about domestic violence. Broaching the subject of domestic violence is never easy. Depending upon one's role, you may have an opportunity to speak to one or all of the parties and the existence of domestic violence may not be known. An unusual element of co-occurrence cases is how the information acquired and subsequently used can directly relate to the safety and well-being of a child and their battered parent. If a batterer learns that a child has shared information about violence in the home, the child and/or victimized parent may be placed at further risk, or it can jeopardize any progress that has been made in a case thus far. Hence, disclosure must be done very carefully and in consultation with other court professionals.

When conducting interviews with families, court professionals should:

- Prioritize safety for the child and the adult victim.
- Inform family members of the confidentiality limitations and reporting requirements before you speak with them.
- Speak with family members separately. Whenever possible, children, friends, and other relatives should not be present during interviews. When domestic violence is suspected or known, interview the adult victim first. As a matter of course, explain to family members that there will be times that you may speak to them together or separately so not to set off alarms in the batterer's head when you seek time to speak alone with the adult victim.
- Respect the terms of existing restraining/protection orders.
- Hold interviews in a safe, private, and comfortable setting; this includes court appearances. Whenever feasible, in light of office or space considerations, judges should arrange to take the victim's testimony in a way that limits public exposure to the information.
- Integrate questions about intimate partner violence into all aspects of their practice, so that it becomes routine.
- Affirm to the victim she does not deserve to be abused and that the abuse is not her fault.
- Express concerns for her safety and the safety of her children.
- Treat everyone with respect, but do not condone violence.

- Link the victim to an advocate immediately for further screening and safety.
- Never use quotes or information provided by the abused parent or child when speaking to the batterer. Even if domestic violence is an issue that was openly discussed in court, do not ask about the abuse in the presence of the perpetrator.

There are many tips to help guide court professionals when speaking and interviewing members of a family. Due to the length they have been attached in Appendix D along with some sample questions.

### **Batterer Accountability & Assessments**

Accountability means placing responsibility for abusive and controlling behaviors on the perpetrator of such behavior. It is the opposite of blaming adult victims or expecting them to control or to

Juvenile courts must collaborate with other courts that are dealing with family members and others involved in the case....[such as] criminal courts to help ensure that perpetrators of violence are held accountable...civil courts that can provide protection orders for the safety and well-being of family members....[and] .....domestic relations and family courts to identify safe visitation, financial support, and custody arrangements that are in the best interests of the child and the victimized parent.

Recommendation 51, the *Greenbook*

protect against the effects of another’s behavior. Experts indicate that the “intervention must be responsive to the totality of harm done by the violence rather than be incident or punishment focused and that it must reflect a commitment to accountability to the victim.”<sup>27</sup> In co-occurrence cases, accountability means that either the batterer stops behaving in a manner that is violent or, depending on the severity of abuse and the surrounding

circumstances, the batterer loses access to his children or access is restricted or monitored. In general, abusers may respond better to concrete consequences for inappropriate behavior and to respectful, consequence-based limit-setting than to appeals for empathy toward victims of violence.<sup>28</sup> As a case proceeds, judges should hold batterers accountable for violations of protection orders and for non-compliance with service plans and other required provisions. Court professionals should not let the non-compliance of batterers influence their recommendations or assessment of the compliance and progress of battered mothers.

Systems are still struggling to find effective ways to hold perpetrators of intimate partner violence accountable for their acts. A few examples of how courts can relay the message that the responsibility for domestic violence and its damaging impact on children lies with the batterer is to:

- Write orders in a way that clearly delineates who is responsible for creating and changing the abusive behavior that led to the concerns for the children’s safety.
- Find out if he has other court involvement and work in coordination with that court.
- Order him to attend and complete a certified or approved batterer intervention program (i.e. follows state standards) and use the batter compliance coordinator to provide monitoring and feedback to the court about compliance.

<sup>27</sup> Pence, Ellen, et al., Domestic Violence Information Manual, Duluth Domestic Abuse Intervention Project (1993).

<sup>28</sup> Mederos, Fernando, Accountability and Connection with Abusive Men: New Child Protection Response to Increasing Family Safety, Family Violence Prevention Fund (2004).

- Order other wrap-around services **in conjunction** with batterer intervention, such as substance abuse treatment, mental health counseling, other educational classes, etc. (if applicable and appropriate). Make sure all service providers are grounded in domestic violence. Any “treatment” should follow a forensic model: at a minimum, the abuser must waive confidentiality; the therapy should focus on safety and behavior change; and the psychotherapist should act as a “whistle blower” with child protection services and the court if the abuser is not complying with all agreements about accountability in the therapeutic process.<sup>29</sup>
- Hold compliance hearings where only the batterer, not the victimized parent, needs to attend.
- Restrict visitation or place parameters around access in a way that safeguards both the child and abused parent.
- Order the batterer out of the home.
- If the batterer is not a biological parent but wants to remain an integral part of the family’s life, ask him to either sign a voluntary case plan or try to attach him as an interested third party.



Juvenile courts should know what batterer intervention services are available in the community and the quality of those services and should be able to track the progress of any parent who is ordered to participate in those services.

Recommendation 62, the *Greenbook*

Research has demonstrated that batterer intervention programs (BIPs) are the preferred intervention for perpetrators of intimate partner violence. There are other services in the community that sound similar, such as anger management, but they are very different. Anger management programs teach techniques for monitoring and interrupting angry outbursts caused by a loss of control. These techniques

do not address the underlying reasons for perpetrating violence against intimate partners. Conversely, BIPs approach their services from the standpoint that violence against women is grounded in power and control. Their mission is to end the violent, abusive, and controlling behavior, and hold batterers accountable for their behaviors. BIPs often make provisions for the safety of victims of domestic violence and their children and collaborate with other agencies in the community to stop intimate partner violence.

The St. Louis Association of Batterer Intervention Programs and the Missouri Coalition Against Domestic and Sexual Violence Batterer Intervention Policy Workgroup are two resources that provide information about recommended practices and standards for Missouri batterer intervention providers. The St. Louis Association of Batterer Intervention Providers is a network of agencies, corporations, and individuals committed to working toward ending violence against women by directly intervening with perpetrators. They believe that violence against women is rooted in the institutionalized imbalance of power between men and women, in sex-role stereotyping, in gender-based values, and in misogyny. There are limitations to batterer intervention programs; completion is not a guarantee that a batterer will cease his violence and abuse.

<sup>29</sup> Id.

Fernando Mederos, a national trainer and former child protection service provider, indicates that **there is not an accurate tool or way to predict if violence will occur again and if the child is at risk from the batterer.** Determining whether a father or partner is abusive is not a clinical decision, but a determination based on reviewing information provided by collateral sources, talking with the alleged abuser and/or victims, and by observing and documenting abusive or coercive conduct witnessed by social workers and other child protection personnel. Psychological diagnosis



or clinical evaluation is not a useful or accurate way to determine whether someone is an abuser. The only way to make this determination is by examining the individual's behavior patterns and actions. The determination should focus on whether there is reasonable evidence of a pattern of coercive control on the client's part. Many extremely violent and lethal men lack criminal records or records understate the abuser's dangerousness or capacity for violence.

There is no one profile of a batterer and therefore risk is hard to predict. Research has shown that victims are often the most accurate source of data about the abuser. Some factors to be taken into consideration are: history of violence (including type, frequency, and points of escalation); access to weapons; level of entitlement<sup>30</sup> and self-centeredness; history of using the children as weapons and of undermining mother's parenting; substance abuse and mental health

history; history of stalking; level of coercive or manipulative control exercised during the relationship; and extreme behaviors when his current or past partners have made attempts to leave him.<sup>31</sup>

Mederos does point out that there are times when a clinical evaluation of a batterer is appropriate, for instance when there are acute mental health or substance abuse issues. The evaluation is not to determine whether he is a batterer, dangerous, or a good parent, but instead to consider whether he has the capacity to function in a BIP or capacity to parent.<sup>32</sup>

## Protection Orders

Adult and child protection orders are available at the Family Court. Court professionals should acquaint themselves with the basic procedures of protection order proceedings and the scope of the orders as part of their work. The clerks of court and the Adult Abuse Office are both resources to victims of domestic violence if they are interested in pursuing these legal options. Pursuant to RSMo §455.035, an adult victim has the option of obtaining a temporary protection order (one provided without notice to the respondent) if she can demonstrate that there is an immediate and present danger. An *ex parte* protection order is in effect upon issuance and remains in effect until there is valid service of process and a hearing is held on the petition (within 15 days of the *ex parte* order unless good cause for a continuance is shown). In an *ex parte* protection order, a judge can:

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<sup>30</sup> A sense of entitlement in relation to domestic violence is usually rooted in patriarchal traditions that encourage men to believe they are entitled to power and control and male privilege. Some examples of how the abusive behavior supports the entitlement is that a perpetrator may believe he can teach her a lesson for something she has done wrong, force her to do something because he wants it done and does not take into account her wishes, or prevent her from doing something that is important to her or the children.

<sup>31</sup> This comes from the well-known tool developed by Dr. Campbell that lists 20 dangerousness factors. She warns that no individual factor should necessarily be given greater weight than other factors and any one factor may or may not be indicative of high lethality.

<sup>32</sup> Mederos, *supra* note 28, at 59-67.

- Restrain the respondent from abusing, threatening to abuse, molesting, stalking or disturbing the peace of the petitioner;
- Restrain the respondent from entering the victim’s residence;
- Award the petitioner temporary custody of minor children; and
- Restrain the respondent from communicating with the petitioner in any manner.

If the petitioner proves the allegations of abuse or stalking, by a preponderance of the evidence, at the formal hearing the court shall issue a full order of protection. The final order is in effect for a period of six months to one year and is subject to renewal by the petitioner. In addition to the relief granted through a temporary order, RSMo §§455.050-455.075 authorizes the court to also:

- Establish a visitation schedule for the non-custodial parent that is in the best interest of the child.
- Award child support.
- Award income maintenance, for no more than 180 days, if the parties are married.
- Order the respondent to pay the rent or mortgage on petitioner’s residence.
- Award temporary possession of personal property.
- Prohibit respondent from transferring, encumbering, or otherwise disposing of specified property mutually owned or leased by the parties.
- Order the respondent to participate in a court-approved counseling program designed to help batterers stop violent behavior or to participate in a substance abuse treatment program.
- Order the respondent to pay court costs and/or attorney fees of petitioner.
- Order the respondent to pay a reasonable fee for housing and other services that are being provided to the petitioner by a domestic violence shelter.
- Order the respondent to pay the cost of medical treatment and services being provided to the petitioner as a result of injuries sustained by acts of domestic violence committed by the respondent.

The presence of firearms or other weapons can greatly increase the potential for lethality in domestic violence cases. Judges are encouraged to ask about the presence of weapons in the home or in the respondent’s possession.<sup>33</sup> When the judge orders that they be removed, he/she should provide written and specific guidance to law enforcement officer about their removal. For example, the judge can outline what weapons are known to exist, where they are usually kept, and provide a timeframe for when they should be removed.

A protection order should not be considered a safety plan but instead one element of an overall plan. It should not be relied upon to provide safety as it is only valuable if the batterer abides by it. There are both inherent risks and benefits to obtaining an order. If an order is violated, a perpetrator can face criminal charges. Yet, for some




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<sup>33</sup> Beginning 2008, in order to receive STOP Violence Against Women Formula Grant Program money, states must certify that judicial administrative policies and practices include notification to protection order respondents about the illegality of possessing firearms and ammunition while subject to a qualifying protection order or if convicted of a qualifying domestic violence misdemeanor. See 18 U.S.C. §922(g) (8) and (g) (9) for specific details. See also the Bureau of Alcohol, Tobacco, and Firearms (ATF) Benchcard Addressing Protection Orders and Federal Firearms Prohibitions [http://www.atf.treas.gov/pub/fire-explo\\_pub/i33102.pdf](http://www.atf.treas.gov/pub/fire-explo_pub/i33102.pdf).

victims of domestic violence seeking a protection order can mean increased risk. For example, some perpetrators may see the order as an ultimate loss of power and with a feeling of nothing left to lose, may become a lethal threat to the adult victim and children. Therefore, pursuing this civil action is an option to be suggested, but not mandated. Domestic violence advocates are best positioned to help a battered woman explore the viability of a protection order.

A child protection order<sup>34</sup> is similar to the adult order. It was established in Missouri to protect children who have been subjected to abuse by a former or current household member. For this remedy, abuse is defined as "any physical injury, sexual abuse or emotional abuse inflicted on a child, other than by accidental means by an adult household member, "except that reasonable discipline is not abuse. A petition for a child protection order can be filed on behalf of a child (person under the age of 18) by a parent, child's legal guardian, GAL, CASA, or juvenile officer. This provision is useful when keeping the victimized parent and child together as it permits the court to set conditions under which a person<sup>35</sup> may or may not have contact with the victimized parent and child. For example, the court could require the battering partner to stay away from the home, stay away from the victimized parent and/or child, or have the battering partner stop certain actions toward the child and victimized parent. The Family Court has jurisdiction if St. Louis is the county where the child resides, where the alleged incident of abuse occurred, or where the respondent may be served. After a full hearing, the court can:

- Enjoin the respondent from abusing, threatening to abuse, molesting, or disturbing the peace of the child.
- Enjoin the respondent from entering the family home of the child victim.
- Enjoin the respondent from having any contact with the child
- Award custody to the non-offending parent (under certain circumstances).
- Award visitation and child support where appropriate.
- Order respondent to make rent or mortgage payments, if respondent has a duty to support the child victim or other dependent household members.
- Award maintenance to petitioner when petitioner and respondent are lawfully married.
- Order the respondent to participate in court-approved counseling designed to help abusers stop violent behaviors.
- Order respondent to pay costs of treatment for himself and/or the child victim.
- Order the respondent to pay for housing and other services provided to the victim by a shelter for victims of domestic violence; and
- Order the respondent to pay attorney's fees.

A child protection order cannot be pursued if there is a case pending or prior order pertaining to the custody of the child. In 2005 and 2006, less than a quarter the number of child protection orders were filed in St. Louis County as compared to adult protection orders.<sup>36</sup> A child protection order is useful in that it can be filed in court without a protective proceeding taking place. This may eliminate the need for state intervention. Also, it can assist in the removal of a battering partner who is not the biological parent from the home. A battered mother can file this on behalf of her child OR a juvenile officer, CASA, or GAL may file as well. If any court professional is filing a petition on behalf of the child, he/she should consult with the victimized parent beforehand and listen to and take into consideration any potential concerns or fears. However, a child protection order is an

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<sup>34</sup> RSMo §§ 455.500 to 455.538

<sup>35</sup> Under this statute, the court can restrain the behavior of a former or current household member, an emancipated child, or a person stalking the child.

<sup>36</sup> Statistics posted by the St. Louis County Domestic & Family Violence Council.



important mechanism to employ **when it is the only option that may prevent the removal of a child from the custody of a non-offending parent.**

Recognizing that this is an important mechanism that the court has at its disposal, the Family Court developed a protocol for DJOs to follow when he/she believes a child protection order petition should be filed. The protocol requires the DJO to:

- Meet with the family and CD caseworker to determine if a child protection order is needed;
- Submit a written request for a petition to his/her supervisor;
- Discuss ground for petition with both the supervisor and GAL. If there is an agreement about the need, submit the petition to an attorney in the legal department;
- Submit petition to a juvenile officer for signature and transfer to the juvenile court docket;
- Assist the non-offending parent and child (if needed/appropriate) in appearing at hearings; and
- Monitor respondent's compliance with provisions of the child protection order.

It is imperative for judges and court professionals to find out if there is a current protection order in place to ensure that consistent recommendations and orders follow and to look for prior orders and discuss with the victimized parent what did and did not work with the last order in order to glean lessons learned. *For a side-by-side comparison of adult and child protection orders see Appendix E.*

### **Safety Planning**

Safety planning is a process where victims of domestic violence explore and evaluate strategies to safeguard themselves and their children in different situations that may bring about safety concerns. The philosophy is to have decisions made in advance so if an emergency arises, there are concrete plans in place to achieve, eliminate, or manage a safety threat. Studies show that safety plans that jointly address the needs of adult victims and their children are more effective and more likely to be maintained after service providers are no longer involved. Safety planning can also be done with children. A child's safety plan must be realistic, simple, and age-appropriate and the child must be able and willing to use the plan.

Safety planning seeks to build a partnership between the victim and the professional assisting her to develop the safety plan. The goal is to understand the victim's perspective, assess options and resources, and develop a plan that integrates the available resources with the victim's wishes and needs. Safety planning focuses on the immediate needs of the victim and addresses the level or risk of danger. Safety planning also takes into consideration that leaving is not always the safest strategy for the victim and failure to access or follow through with services is not always an indication that victims are not interested in protecting themselves. Following a safety plan should not be used as a basis for measuring compliance of a service plan. Safety planning is fluid and as circumstances change and victim's decision-making changes, the plan should be revisited.



Attorneys, DJOs and CASA volunteers are sometimes the first people to discuss domestic violence with a victim and therefore may need to assist a woman in creating an interim plan to provide for immediate safety. Ideally, the

victimized parent should be given the opportunity to create a safety plan with a domestic violence advocate outside of the child abuse/neglect case. A thorough safety plan should be done in person and can take several hours to develop. It does not necessarily have to be written down. Court professionals in Family Court have the ability to refer victims to the court-based family court domestic violence resource specialist (see later discussion on this position). There are several reasons why a domestic violence service provider should work with an adult victim to develop the safety plan, such as:

- A domestic violence advocate has the specialized expertise and knowledge to help the victim build a thorough, realistic plan.
- The victim may be willing to share more details with an advocate outside the child welfare or court system, leading to a more specific and realistic plan.
- The relationship with a domestic violence service provider may be useful to her in the future.
- With a skilled independent advocate, the victim may feel less pressure to do what she thinks someone wants her to do and more empowered to make her own choices. This will lead to a stronger plan and contribute to the victim's healing process.
- There is a risk that an inexperienced person may not be able to help the victim form a plan that is sustainable over time.

As with any strategy, safety plans **do not guarantee safety**. They are a mechanism to increase that

The juvenile court should ensure that all participants in the court system are trained in the dynamics of domestic violence, the impact of domestic violence on adults and children, and the most effective and culturally responsive interventions in these cases including safety planning.

Recommendation 47, the *Greenbook*

possibility. Judges should ensure that victims have been offered the opportunity to meet with a domestic violence advocate in order to discuss or create a safety plan. **Court professionals should never reveal or be required to reveal any particulars of either the victimized parent's or child's safety plan, including the fact that one exists.** The rationale is that if the battering partner has information about the safety plan, then the plan is no longer viable. Judges should confirm that a domestic violence advocate was made

available to a victim for safety planning and other desired assistance.

An important aspect of safety planning surrounds the victim coming to the courthouse to meet with court professionals and to attend hearings. Judges should actively participate in conversations with DJOs, attorneys, and domestic violence advocates about how to improve upon creating a safe environment for victims of domestic violence. Some best practices are: separate waiting areas; seating parties in the courtroom so that the batterer cannot make eye contact with the victim; holding separate hearings where possible; arranging for a deputy or security officer to be available to walk the victim to and from her car and monitor the hallway before the hearing; and allowing the victim to bring a domestic violence advocate or another supportive person into the hearing.

## Service Plans

A family may either have a family plan for change or a service plan.<sup>37</sup> They both have the goal of assisting the family in making whatever changes are necessary to maintain safety and stability. If there is an out of home placement, the plan should describe what each parent must individually do to facilitate the return of the child. DJOs should assist in the formation of the service plan or treatment plan for the family. Parents' attorneys and GALs should review the plans examining for feasibility, appropriateness of specific services and service providers, and consistency with recommendations and court orders.

<sup>37</sup> Family plan for change is what a plan is called when there is not formal court involvement.

It is important that court professionals maintain a working knowledge of what resources are available in the community and how they can be accessed. Families who are experiencing co-occurrence can also be dealing with other issues and may have multiple system involvement. Thus, families may need a multitude of resources, such as housing, support groups, financial assistance, job training, health care, legal advocacy, child care, etc. Many battered mothers will find it difficult to protect their children without these basic supports. Services used should be accessible (no waiting lists and located within the community), affordable, appropriate (created to meet the specific identified needs, culturally and linguistically relevant), and delivered by providers that understand domestic violence. Adult victims of domestic violence should not be court-ordered into domestic violence programs. This practice counters victim autonomy, a principle that is central to advocacy services. Instead, victimized parents should be informed of the possible benefits of advocacy and encouraged to seek such services voluntarily.

Families experiencing domestic violence and child maltreatment require communities to develop broad panoply of services and legal interventions for a widely diverse group of people.

Text at p. 24, the *Greenbook*

In co-occurrence cases, each parent should have a separate service plan so that a party's non-compliance does not affect the other. In accordance with the St. Louis County *Greenbook* Initiative, the following practices are recommended in service planning and delivery and ensuing court orders:

- Court professionals ensure that adult victim has privacy in the specifics of her own service plan, to reduce the opportunity for coercion and intimidation.
- Court orders and service plans are crafted based on what the family has identified as their needs, including the adult victim's perception of what will enhance her and her children's safety.
- Court professionals should never recommend or order interventions that require discussion of domestic violence with both the perpetrator and adult victim present, such as mediation or joint/family counseling.
- The creation of separate service plans that are consistent with the unique needs of family members.
- The adult victim has had the opportunity to engage in meaningful safety planning throughout the life of the case with an experienced professional.
- Services are delivered by professionals who have a core competence in intimate partner violence.
- If the primary issue creating safety concerns for the children is not domestic violence, assure that issues pertaining to the domestic violence are still accounted for in interventions, but are not a condition of termination of the case.
- Never include particulars of either the victimized parent's or child's safety plan in a service plan or court order.
- Visitation arrangements are safe for the child and do not allow for the perpetrator to exert influence over the relationship and interaction of the adult victim and child.
- Judges review submitted agreements to ensure that they were not entered into under duress or compromise safety.
- Where possible, children should be evaluated and treated at programs that specialize in working with children exposed to domestic violence.
- If the situation permits, share with the adult victim or her attorney recommendations or information that will be provided to the court in order to ascertain whether they could potentially raise safety concerns for her or her children. This allows court professionals to strategize if necessary on how to present the information in a way that minimizes any potential safety risk.
- Prioritize removing the abuser before removing the child.
- Use batterer intervention programs that challenge assumptions about gender roles, appropriateness of use of power and control dynamics.
- Include holistic services, such as housing, medical care, counseling, parent, job training, and other supports as appropriate.

As with all child maltreatment cases, co-occurrence cases should have ongoing assessments and flexible responses that are based upon the safety of the child, the needs of family members, and the community's capacity to respond to those needs. That does not mean that service plans should be amended to reflect new issues without a new legal basis and course of action. This is counter to best practice and leads to either prolonged cases or terminations that are not based on the reasons filed with the initial petitions. Court professionals should question when new information or requirements are added to service plans and ensure that they are tied directly to the reason the family first became involved in the system. Instead, the new information, especially about domestic violence may help contextualize why the family has not accessed or is having trouble completing service and then it is incumbent on court professionals to help remove those barriers.

## **Placement & Visitation Decisions**

Judges in the Family Court will be asked to make child custody and visitation orders in a variety of cases (protection order, divorce, paternity, and abuse and neglect); all requiring that decisions be guided by the best interests of the child. While this Guide focuses on the juvenile side of Family Court, the statutes applicable to all these matters are highlighted herein as they can provide some insight for judges into the legislative intent when domestic violence is a factor.

### *Placement*

Best practice dictates that children remain in the custody of their non-offending parent whenever possible. If a child has been removed from the custody of a battered parent in a co-occurrence case, pursuant to RSMo §211.037, the child should be returned to her custody if:

- The parents have lived together for at least six months prior to the incident that led to the removal of the child or the parents are maintaining separate households; and
- A preponderance of the evidence indicates that only one of the parents is the subject of the abuse or neglect investigation; and
- The non-offending parent does not have a history of criminal behavior, chemical dependency, child abuse/neglect, domestic violence, or stalking within the past five years; and
- The parents are no longer residing together (court can have offender removed involuntarily); and
- A non-offending parent requests custody of the child and abides by any orders of the court limiting contact or establishing visitation with the offending parent.

When looking specifically at the issue of custody, the adult protection order statute has a presumption that the best interests of the child will be served by placing the child in the custody and care of the non-abusive parent<sup>38</sup> and the domestic relations statute states that courts should order custody and visitation rights in a manner that best protects the child and any other child or children for whom the parent has custodial or visitation rights, and the parent or other family or household member who is a victim of domestic violence.<sup>39</sup>

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<sup>38</sup> See RSMo §455.050

<sup>39</sup> See RSMo §452.375. The statute also lists elements of best interests of a child when considering custody in a domestic relations case.

## Visitation

Visitation is an important aspect of service plans. It enables children who have been placed into foster care to remain connected with their parent(s), helps retain some sense of normalcy, and is essential to reunification. Visitation in child abuse/neglect cases usually focuses on the safety of the child. In co-occurrence cases, visitation presents additional safety concerns because of the risk posed to the adult victim and the opportunity for the battering partner to exert influence over the relationship and interaction of the adult victim and child. Intervening professionals need to be aware of the risks and subtleties with visitation for the victimized parent and account for safety in that regard. Depending upon the circumstances of the case, court professionals may need to provide recommendations to the court regarding visitation between: the child and both parents, the child and victim parent, or the child and battering parent. These are all very different situations that require attention to reunification, access, and safety.

It cannot be emphasized enough that each child and each family needs an individual assessment about what will work best in terms of visitation. Judges, DJOs, and GALs should consider the impact and relationship of domestic violence on each individual child before creating any access for the partner that has perpetuated the intimate partner violence. Orders should be established that prevent the battering parent from contacting the victimized parent about the children or having joint decision-making about the children. Instead, decision-making in most circumstances should remain with the abused parent.

The juvenile court should require that safe visitation and visitation exchange locations be utilized so that supervised visits and exchanges will be safe for the child and for the battered woman.

Recommendation 65, the *Greenbook*

When available, measures should include, but not be limited to, arranging different visitation schedules, using supervised visitation and exchange services or a safe drop-off/pick-up location, and including provisions in a safety plan in case the batterer unexpectedly appears. Other factors to consider are whether there has been:

- Serious injury to the adult victim;
- Threat of child abduction;
- Reports of an increase in either the frequency or severity of the violence;
- Stalking;
- Use or threat of use of weapons; or
- Threats of suicide or homicide.



If the victimized and battering parent both require family time, the initial presumption is that they should occur separately, even if the parents remain together as a couple. Professionals and the court should make every effort in this situation not to reduce the amount of time that parents have to visit with their children. The separate family time arrangements are not a punishment. Instead, creating separate opportunities for visitation does several things: allows time for parents to each build a healthy relationship with the children; facilitates the development of unique family time arrangements for each parent that keep the focus on safety of the child and adult victim and accountability on the batterer; and is consistent with creating separate service plans and preserving the abused parent's confidentiality. Thus, in crafting visitation orders:

- Check for existing restrictions that may impact visitation through protection orders, conditions of probation, or other court orders.
- Recommend and implement measures that meet the safety needs of both the child and the victimized parent.
- Create separate visits if the child is out of the care of both parents.
- Use supervised and visitation services that specialize and account for domestic violence in their policies and procedures (e.g. mission statement reflects purpose of serving families experiencing domestic violence, they have facilities that promote safety like security guards and separate entrances, and require staggered arrivals and departures).
- Require children to be exchanged under the supervision of a third party (preferably trained) or at a minimum at a safe drop-off/pick-up location.
- Inquire into a history of violence when an absentee parent becomes re-involved in the child’s life through the child abuse/neglect proceedings. Promoting contact between children and a violent ex-spouse may create an opportunity for renewed domestic violence through visitation and exchange of children.
- Consider recommending or ordering no contact between the batterer and the child until safety of both the child and victimized parent is assured.
- Use a graduated approach when allowing visitation/access between a perpetrator and children.
- Understand that “good” behavior is not indicative of future violence.
- Assess whether visitation needs are the same or different for families with more than one child.

The domestic relations statute<sup>40</sup> indicates that judges should consider evidence of domestic violence and not grant visitation if it would endanger the child's physical health or impair his/her emotional development. The evidence of domestic violence includes, the parent's history of inflicting, or tendency to inflict, physical harm, bodily injury, assault, or the fear of physical harm, bodily injury, or assault on other persons. Any visitation arrangements should be designed in a manner that protects the child, the victimized parent, or other household members. If the court orders no contact or supervised contact, those conditions shall not be lifted until the batterer has produced proof of “treatment and rehabilitation.”<sup>41</sup> Interestingly, the Missouri Legislature also made fleeing an incident or pattern of domestic violence an absolute defense to parental kidnapping or child abduction.<sup>42</sup> This demonstrates a continued effort to legally protect victimized parents and children.

Any proposed caretakers for the child, including the non-custodial parent, any relative or kin, or foster parent, should be assessed for child maltreatment, criminal history, domestic violence, substance abuse, and their willingness to work with the court, social service agencies, and the battered woman concerning the needs of the children.

Recommendation 49, the *Greenbook*

The preference to place children who require out-of-home placement with relatives is both understandable and statutorily advised as long as it is not contrary to the best interests of the child.<sup>43</sup> Additionally, relatives are commonly used to assist with visits or exchanges. However, when there is the intersection of domestic violence and child abuse, court professionals must also determine if:

- The relatives understand and acknowledge the risks presented by the perpetrator;
- The relatives do not blame the victim for the violence;
- The relatives will not collude with the batterer against the adult victim;
- The relatives understand or are willing to learn about the effects of domestic violence on the children;
- There is a history of domestic violence by any person in that home;
- The relatives can work with intervening professionals to provide continued safety, including complying with all the court orders; and
- Additional services and supports are needed.

<sup>40</sup> RSMo §452.400

<sup>41</sup> Id.

<sup>42</sup> RSMo §565.160(3)

<sup>43</sup> RSMo §210.565

## Specialized Positions

The St. Louis *Greenbook* Initiative has fostered learning opportunities, collaboration, the development of new policies and procedures, and the creation of two new resources that court professionals can turn to in co-occurrence cases. These positions are a testament to the commitment and dedication of the staff, Steering Committee, and partners of the local initiative. The two resources are the Batterer Compliance Project Coordinator and the Family Court Domestic Violence Resource Specialist.

### *Batterer Compliance Project*

The Batterer Compliance Project was developed with the goal of reducing recidivism of domestic violence offenders in St. Louis County. The project serves as a centralized referral and monitoring source when offenders are ordered to attend a batterer intervention program (BIP) out of Family Court proceedings, including co-occurrence cases. Court professionals should consider using the project as a way to help link the perpetrator to a BIP and determine if he is complying with court and program requirements. The project coordinator can:

- Explain to batterers the goal and purpose of BIPs and refer to an available and appropriate program;
- Clarify and implement methodologies for enforcement of court orders mandating attendance at batterer intervention and/or related counseling programs;
- Obtain reports from BIPs on participant progress;
- Provide reports to the court and attend compliance hearings; and
- Attend settlement conferences, court hearings and other multi-disciplinary staffings in order to report and discuss progress and recommendations regarding program participants.

### *Family Court Domestic Violence Resource Specialist<sup>44</sup>*

The position was created in order to facilitate a coordinated approach to identifying families with the co-occurrence of domestic violence and child maltreatment; provide those identified with immediate, confidential access to comprehensive intervention services; and promote the safety and well-being of victims of abuse and their children. The family court domestic violence resource specialist provides voluntary, confidential, and free services to any parent in abuse or neglect cases, if it has been determined that the parent is a victim of domestic violence. Attorneys, DJOs, CASA volunteers and judges can refer parents to the advocate. The advocate is an employee of Legal Advocates for Abused Women and is co-located at the courthouse in order to remain available to battered parents and to coordinate with court professionals on cases.

The juvenile court should encourage the utilization of a domestic violence advocate for the battered mother in all dependency cases involving allegations of domestic violence and encourage the input of advocates in development of service plans

Recommendation 67, the *Greenbook*

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<sup>44</sup> The advocate uses the Advocate/Resource Specialist title so not to raise red flags when families are referred. Additionally, there is a similar Resource Specialist position within the CD.

Some of the services provided by the advocate include:

- Crisis intervention and support
- Safety planning
- Comprehensive community referrals
- Advocacy
- Information about the dynamics of domestic violence and stalking
- Assistance in navigating court proceedings
- Assistance with the development and implementation of court training as requested
- Participation in protective custody hearings and other hearings as requested by the victim, DJO, CD caseworker, or any other court personnel in co-occurrence cases.

### **Establishing Relationships with Domestic Violence Organizations**

Throughout the St. Louis County, there are 26 different nonprofit agencies providing shelter, support, and advocacy for victims of domestic violence and operating batterer intervention programs. Court professionals should not only be acquainted with these resources but also build relationships with a variety of domestic violence providers. Domestic violence advocates can assist court professionals: think through their course of action in co-occurrence cases; help frame presenting actions of battered parents and offer consultation; link clients with accessible, appropriate, and available services; and support the adult victim by serving as an advocate, offering court accompaniment, and attending multi-disciplinary case consultation meetings where service plan elements are assessed.

Domestic violence organizations offer a range of confidential and free services to battered parents seeking assistance. Some of the most typical services include emergency shelter, information and referral, peer support and advocacy. Court professionals should inquire:

- What help is available for victims of domestic violence?
- Are there services specifically for children?
- Are there multicultural and multilingual staff?
- Does the organization provide advocacy for court, housing, and financial services?
- How do families access services?
- For residential services, can victims bring their children and are there any restrictions on this? What is the maximum stay? How easy is it to get a bed? What are the rules for residents?

Families learn about available resources through various mechanisms (brochures, internet, bar association, word of mouth, etc.) and judges should arrange that information about domestic violence services is accessible through all these means.



## Family Support Team Meetings

A Family Support Team Meeting (FSTM) is a planned meeting of the CD caseworker and supervisor, family members, the family's friends and supporters, parents' attorneys, and community service providers who join together to help strengthen a family and develop a supportive service plan. GALs and DJOs are also invited and are strongly encouraged to attend. The family is at the center of the



process, surrounded by self-identified and system-identified helpers. Through a strength-based approach, the goal and philosophy is to create a cooperative environment where families and community can work together to design assistance (i.e. service plan) that meets the needs of all involved and promotes safety, well-being, and stability. The meeting is facilitated by the CD caseworker, a community leader, or another member of the team who has training in facilitation. If a child has been removed from the home, a FSTM is mandatory.<sup>45</sup> All information shared at a FSTM held in relation to the removal of a child, is confidential

unless a party signs a waiver and the parent's have the right to record the meeting.<sup>46</sup> Others participating in the FSTM are bound by confidentiality and must sign a confidentiality agreement; refusal to do so will disqualify them from participation.

Typically any type of joint meeting when there is intimate partner violence is not recommended due to the power differential which is difficult to mitigate and overriding safety concerns. In Missouri, FSTMs can be mandated and have been used to build relationships among service providers and the family. There are national guidelines<sup>47</sup> for FSTMs when domestic violence is a known factor. While they have not been adopted in Missouri, they still offer direction to best practice. DJOs, GALs, and other court professionals working in a co-occurrence case should work with CD to guarantee that these are taken into consideration: They are:

- If possible, conduct a separate FSTM for the batter and victimized parent.
- Offer the involvement of a domestic violence advocate before, during, and after the FSTM.
- Abide by provisions of an existing protection order.
- Discuss with the victimized parent what would help create a safe and respectful process and physical space for the FSTM.
- Whenever possible, use a facilitator trained in domestic violence to lead the FSTM.
- Have domestic violence service providers at the meeting and consulted through the development and implementation of family service plans.
- Design safety into the arrival and departure of the victim from the FSTM.
- Discuss how the topic of intimate partner violence should be approached and listen to her concerns.
- Provide her with an opportunity to create a safety plan around the FSTM.
- Determine if any other person attending the FSTM may pose as a risk to her or her children.
- Do not require that a FSTM takes place unless the adult victim consents after being informed of the process and possible consequences.

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<sup>45</sup> RSMo §210.762

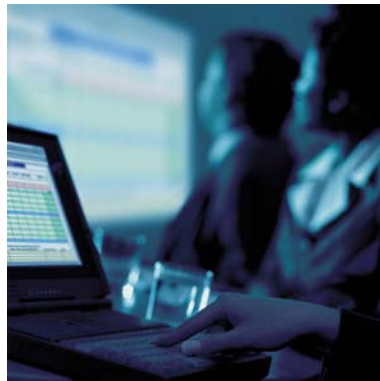
<sup>46</sup> RSMo §210.147

<sup>47</sup> Carter, Lucy Salcido, Family Team Conferences in Domestic Violence Cases: Guidelines for Practice, Family Violence Prevention Fund (Second ed. 2003).

Although CD is in the process of implementing standardized screening for domestic violence into their practice, the FSTM may be the first time anyone learns about the domestic violence. If that happens, it is suggested that the FSTM be paused in order for professionals to assess how best to move forward, if at all. This “pausing” should be done in a discreet way so not to raise red flags for the batterer.

## Building Expertise

Courts must insist that professionals involved in co-occurrence cases have the necessary expertise to carry forward justice, safety, and well-being. Professionals need a strong knowledge and skills base to be effective and to avoid causing unintentional harm. Training should be a pre-service requirement as well as ongoing. Best practice also dictates that trainings occur within and across disciplines and be provided by experts from the corresponding field. Judges are in a position to leverage resources for training and should ensure that all court professionals handling co-occurrence cases at a minimum are trained in the dynamics of domestic violence, the impact of domestic violence on adults and children, and culturally responsive approaches and interventions. **Judges should screen attorneys on the GAL appointment list and work with the parents’ attorneys to set expectations about knowledge level.** The same intense level of screening should be applied to mental health professionals, social service providers, CASA volunteers, DJOs, and any other court professional that are making recommendations to the court or implementing/monitoring service plan provisions. Other training topics are: potential effects of intimate partner violence on parenting; screening, assessment, and identification and referral; relevant state and federal laws; confidentiality and information sharing; battered women’s decision-making; post-separation violence; batterer tactics and accountability; safety planning; roles and responsibilities of various court professionals; and learning about available community resources.



## Personal Bias

No one is without biases or preconceived notions. Everyone has opinions and beliefs that contribute to the way in which they view the world. Personal experiences and backgrounds influence our values and in turn impact how we perceive relationships between mother and children, fathers and children, how we parent, and our attitudes and beliefs about child abuse and neglect and intimate partner violence. Studies have demonstrated that people can be consciously committed to social equality and actively work to live a life without bias yet possess hidden negative prejudices or stereotypes.<sup>48</sup> They may believe they see and treat others as equals, but their hidden biases may still influence their perceptions and actions. Biases can be reflected in verbal and nonverbal communication and the approach taken on a particular case. Unknowingly, this can lead to tensions and obstacles from well-meaning actions.

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<sup>48</sup> Tolerance.org, Hidden Bias: A Primer About Stereotypes and Prejudices (January 2005).

In co-occurrence cases, professionals may have hidden biases about families that have prior system involvement; battered mothers who want to try to remain with the batterer; families dealing with multiple issues; mothers who have children from different fathers; and families from different ethnic or socio-economic groups. Biases can appear in comments made about the child welfare system, the number of requirements in a service plan, who gets reported under the mandatory reporting law, the level of support the family is offered during the pendency of the case, and the type of information provided to the court in reports.

Professional mandates require attorneys for children and parents to not take appointments if they believe they have a conflict of interest.<sup>49</sup> **Arguably, personal bias is a conflict of interest.** If a court professional feels that she/he cannot judge or work fairly and objectively with co-occurrence cases, she/he should make this known to her respective supervisor rather than remaining silent. Recusing oneself is furthering the safety of children and victims of domestic violence in St Louis County. Court professionals should be committed to ongoing self-assessment. Examining one's own belief system in order to determine if co-occurrence cases are ones in which you can fairly and objectively participate, may be the most difficult task you will undertake as a professional.

### Cultural Sensitivity/Competency

Culture has been defined as the shared values, traditions, norms, customs, arts, history, folklore, and institutions of a group of people. Learning about cultures can help service providers avoid stereotypes and biases that can undermine their efforts. Although domestic violence occurs in all cultures, races, socio-economic classes, and communities of faith, these diversities shape how a person defines

Cultural competence requires agency leaders to make an ongoing commitment to fact-finding in order to determine whether children and families of diverse backgrounds are served fairly and capably by their agencies—in the reporting and substantiating of child maltreatment; in the filing of dependency petitions and foster care placements; and in the responses of shelter providers, police, and the courts to domestic assaults and child maltreatment.

Recommendation 9, the *Greenbook*

domestic violence and responds to the violence, including the type of help seeking behaviors they may or may not undertake. Culture provides a framework for interpreting and behaving in the world. Culture shapes personal and group values and attitudes, including perceptions about what works and what does not work, what is and is not helpful, and what makes sense versus what does not.

Understanding the intersection of culture, ethnic identity, language, sexual orientation, gender identity, and poverty with domestic violence is essential to competent and sensitive practices in

co-occurrence cases. While domestic violence and child abuse are difficult for any family to deal with, various populations often experience additional burdens and stress when they seek services. Persons from groups that have been oppressed over the course of generations include those experiences of oppression, racism, ethnocentrism, homophobia, and discrimination in their worldview. Thus, they may see mainstream “helping” systems as more oppressive, destructive, and re-victimizing than the homes they live in and will do everything in their power to avoid having their abuser, children, and

<sup>49</sup> National Association of Counsel for Children, NACC Recommendations for Representation of Children in Abuse and Neglect Cases (2001); Missouri Juvenile Justice Association, Standards with Comments for Guardians ad Litem in Missouri Juvenile and Family Court Matters, Missouri Supreme Court (1996); and American Bar Association, Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases (2006).

themselves involved with them. It is important to recognize that immigrant populations, people of color, and transgender, gay, lesbian, and bisexual victims of domestic violence face obstacles to accessing help, such as racism, prejudice, language, and lack of culturally or linguistically appropriate services that are not present for other victims of domestic violence or their children.

Cultural competence requires<sup>50</sup> that organizations and their personnel have the capacity to: (1) value diversity, (2) conduct self-assessments, (3) manage the dynamics of difference, (4) acquire and institutionalize cultural knowledge, and (5) adapt to diversity and the cultural contexts of individuals and communities served. For courts and social service agencies, cultural competency is achieved by identifying and understanding the needs and help-seeking behaviors of individuals and families; designing and implementing services that are tailored or matched to the unique needs of individuals, children, families, organizations and communities served; and allowing practice to be driven by client preferred choices, not by culturally blind or culturally free interventions. **Court professionals should work with culturally-specific organizations in order to increase their knowledge of culturally competent practices; increase community availability of culturally relevant services to families; and identify existing services that are best suited to assist families.**

### Vicarious Trauma

Working with families in crisis is difficult both professionally and personally. Many court professionals report that there is a personal toll that can occur, known as vicarious trauma. Conceptualized by McCann and Pearlman<sup>51</sup> vicarious trauma is described as “pervasive changes that occur within clinicians over time as a result of working with clients who have experienced...trauma.” Vicarious trauma is sometimes called compassion fatigue, secondary traumatic stress, and is related to burnout. Vicarious trauma refers to the experience of professionals developing their own trauma symptoms in response to working with victims. It impacts people in that it affects their worldview, spirituality, and sense of identity. In the short-term, vicarious trauma symptoms include: anger, flashbacks of traumatic events or descriptions, sadness or depression, feelings of helplessness, anxiety, withdrawal, and disrupted sleep. In the long-term, symptoms also include: cynicism, somatic complaints, generalized fearfulness, loss of faith in humanity, chemical dependency, and difficulties in intimate relations.



Several studies have been conducted in this area.<sup>52</sup> One study indicated that attorneys who handled primarily domestic violence cases had significantly higher rates of vicarious trauma than mental health providers and social service providers handling similar caseloads. Another study showed how susceptible judges are to vicarious trauma with 63% of judges reporting symptoms. Dr. Peter Jaffe

<sup>50</sup> Adapted from Cross, Terry, et al., *Towards a Culturally Competent System of Care*, Georgetown University Child Development Center, CASSP Technical Assistance Center, Vol. 1 (1989).

<sup>51</sup> McCann, Lisa & Pearlman, Laurie Anne, *Vicarious Traumatization: A Framework for Understanding the Psychological Effects of Working with Victims*, *Journal of Traumatic Stress* 3: 131-149 (1990).

<sup>52</sup> Anderson, Janet, et al., *Vicarious Trauma and Its Impact on Advocates, Therapists, and Friends*, *Research & Advocacy Digest Linking Advocates & Researchers*, Volume 6:2 WCSAP (March 2004); Jaffe, Peter, et al., *Vicarious Trauma in Judges: The Personal Challenge of Dispensing Justice*, *Juvenile and Family Court Journal*, Volume 54:4 pp 1-9 (NCJFCJ Fall 2003); and Levin, Andrew & Greisberg, Scott, *Vicarious Trauma in Attorneys*, originally published in *24 Pace Law Review* 245 (Fall 2003).

asserts that judges may be more prone to vicarious trauma because ethically they are usually prevented from debriefing and consulting which reduces susceptibility. Dr. Jaffe also cites awareness of needs, limits, and emotions; balance of personal and professional activities; and connecting oneself as key elements to reducing and addressing vicarious trauma. Moreover, some research suggests that less experienced workers may need more support and training on vicarious trauma.

It is important to recognize that vicarious trauma is a reality. Court professionals need to listen to their gut about whether they may have feelings from a past case or other events that may be affecting how they are approaching co-occurrence cases. Removing oneself from cases involving domestic violence for a period of time is a viable option as is speaking with other professionals who work with victims of domestic violence about how they process their feelings. Some coping strategies that can be employed at the personal, professional and organizational level include:

#### *Personal/Professional*

- Accepting your reactions as normal responses to the specialized work.
- Limiting exposure to traumatic material (books, conferences, movies).
- Balancing your workload as to type of client issues.
- Developing a supportive environment for discussing your own reactions.
- Engaging in activities that promote physical health & leisure activities.
- Emphasizing self-care and self-nurturing.
- Seeking out experiences which instill hope and comfort.
- Taking “mental health” breaks.
- Setting clear boundaries between home and work.

#### *Organizational*

- Developing peer support.
- Recognizing and offering training on vicarious trauma.
- Creating safe, private and confidential work space.
- Providing supervision and consultation.
- Creating a working environment that is respectful toward staff and clients.
- Giving adequate vacation, sick time and personal leave.
- Providing access to stress management.

## Other Integral Roles & Responsibilities:

In co-occurrence cases, court professionals must abide by their own respective discipline's standards and engage in activities that support the philosophy of this Guide. Michael Brigner<sup>53</sup> has described critical mistakes made by judges in domestic violence cases. These mistakes can be applied to all court professionals and several are apropos to co-occurrence cases:

- Failing to acquire and achieve professional competence in domestic violence cases.
- Assuming violence stops at separation.
- Assuming that litigation provides justice and safety.
- Assuming that a violent parent can be a good father.
- Assuming that mothers who stay with their abusers are not providing safety for children.
- Failing to restore the non-offending mother to financial stability for the protection of the children, including refusing to award spousal support, child support, attorney's fees, and restitution in protection order cases.
- Assuming that if children resist visitation, it is because they have been "alienated" or brainwashed versus having legitimate fear of a violent father.
- Failing to require intensive, long-term batterer intervention.
- Assuming there is a source of information about a perpetrator's likelihood to re-offend that is more accurate than the victim's own assessment.

Juvenile courts must treat each case with the highest priority, ensuring that safe placements and services are identified immediately and that safety-enhancing orders are made for children and other family members.

Recommendation 45, the *Greenbook*

Learning from these mistakes and guided by the *Greenbook*, the ensuing sections provide duties of court professionals in co-occurrence cases; many of these practices or considerations have already been discussed in different portions of the Guide.

### **Attorneys**

There are several attorneys involved in co-occurrence cases: attorneys for the parents; an attorney for the child; and an attorney from the county legal department representing the state/juvenile officer/child protection agency. Each attorney has a different focus of representation; all with the duty to the court and their respective client. There are standards and best practice models that guide the representation of children and parents in child abuse and neglect proceedings; none specifically for co-occurrence cases.<sup>54</sup>

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<sup>53</sup> This information was summarized in an article from a speech given at a conference on June 8, 2006, by Michael Brigner, who is the author of *The Ohio Domestic Violence Benchbook: A Practical Guide to Competence for Judges & Magistrates* and a former domestic relations judge. See Reixach, Karen, *Competence in Domestic Violence Cases Involving Parenting Decisions*, *The Daily Record* (June 22, 2006).

<sup>54</sup> These include publications by the American Bar Association, the National Association of Counsel for Children, and the Missouri Supreme Court.

## *Guardians ad Litem (GAL)*

Children need competent, independent, and zealous attorneys. Competent representation includes knowledge, skill, thoroughness, and preparation. The GAL has to consider the child's wishes, but also is required to make an independent judgment of what is in the best interests of the child, even if that is not what the child wants. The duties of a GAL are outlined in the standards created by the Missouri Supreme Court and there are professional recommendations offered by National Association of Counsel for Children.<sup>55</sup> Those documents call for GALs to:



- Observe all statutes, rules, and regulations concerning confidentiality and provide confidential communication with children.
- Be objective, independent, and knowledgeable about the child's particular situation.
- Interview the child (if age appropriate). If there is more than one child, each child should have a separate interview with the GAL.
- Advocate for the continuation of appropriate, familial relationships and family preservation services.
- Inform the judge and other court professionals of the child's wishes, even if they differ from what the attorney believes is in the child's best interest.
- Advocate for the utilization of court processes that minimize harm to the child, and make certain that the child is properly prepared and emotionally supported where the child is a witness.
- Not diagnose or work therapeutically with the child.
- Remove him/herself if there is conflict of interest on the case.
- Require that court orders and service plans are clear and specific.
- Work closely with DJOs and CASA volunteers, promoting practices that uphold the *Greenbook's* recommendations.
- Ensure service plan recommendations are tied to the reason the family is involved in the court system and monitor their implementation.
- Ensure reasonable efforts are being made and if not, bring arguments forward to the court.
- Seek specific child assessments if needed.
- Participate in multi-disciplinary service planning, including FSTMs.
- Seek to keep the child in the care and custody of the non-offending parent whenever possible.
- Offer independent recommendations for each child in the same family.
- Receive ongoing training on relevant issues impacting co-occurrence cases.
- Engage in self-care activities.
- Ensure information that could compromise the safety of either the parent or child is removed from documents or offered to the court in a way that will minimize its impact.
- Engage in safety planning with the child if age appropriate.

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<sup>55</sup> Missouri Juvenile Justice Association, Standards with Comments for Guardians ad Litem in Missouri Juvenile and Family Court Matters, Missouri Supreme Court (1996) and National Association of Counsel for Children, NACC Recommendations for Representation of Children in Abuse and Neglect Cases (2001).

### *Attorneys for Battered Parents*<sup>56</sup>

Research has indicated that limited access to legal representation may be a factor in abused women remaining or returning to abusive relationships and that access to an attorney is the service above others that reduces a victim's exposure to further abuse.<sup>57</sup> Many victims of domestic violence are unaware of their legal rights or have been given misinformation about the legal system by their batterers. They may have been repeatedly told by their batterer that they would lose custody of their children if there was ever system involvement and therefore feel like there is no hope. Consultation with an attorney early into a system's involvement can help alleviate a mother's fears and help her understand her available options. Thus, it is critical that competent attorneys for battered mothers become involved in co-occurrence cases as soon as possible and that they:<sup>58</sup>

- Acquire sufficient working knowledge of all relevant issues to co-occurrence cases.
- Inform their client about the legal processes and screen for other legal issues that can impact her decision-making, such as immigration, pending evictions, bankruptcies, etc.
- Understand and protect the parent's right to information and decision-making.
- Zealously represent a parent in all stages of the case, including pre-petition and appeal, if allowable.
- Work to reduce delays in court proceedings unless there is a strategic benefit for the client.
- Cooperate and communicate with other professionals involved in the case.
- Advocate for the client's goals and empower the client to direct the representation and make informed decisions based on thorough counsel.
- Meet and communicate regularly, in a safe manner, with the client throughout the life of the case.
- Counsel the client about all legal matters related to the case, including specific allegations against the client, the service plan, the client's rights in the pending proceeding, any orders entered against the client and the potential consequences of failing to obey court orders or cooperate with service plans.
- Be alert to and avoid potential conflicts of interest that would interfere with competent representation.
- Ensure reasonable efforts are being made and if not, bring arguments forward to the court.
- Engage in service planning and advocate for appropriate services.
- If the child is out of the abused parent's custody, aggressively advocate for regular visitation in a family-friendly setting, that protects both the child and abused parent.
- Prepare and make all proper motions, evidentiary objections, and proposed findings of fact, conclusions of law and orders when they will be used in the court's decision making or may otherwise benefit the client.
- Review court orders to ensure accuracy and clarity and review with client.



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<sup>56</sup> This Guide focuses on representation of the battered parent. A battered woman and her alleged perpetrator should have **separate** legal representation. Attorneys representing abusive parents can assist with batterer accountability by reaffirming the message that it is their behavior that has brought the family into the system and explaining the impact of their violence on their children.

<sup>57</sup> Farmer, Amy & Tiefenthaler, Jill, Explaining the Recent Decline in Domestic Violence, *Contemporary Economic Policy* 21 (2), 158–172 (April 2003).

<sup>58</sup> American Bar Association, *Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases* (2006); American Bar Association, *Tool for Attorneys to Screen for Domestic Violence*, Commission on Domestic Violence (2005). A battered woman and her alleged perpetrator should have separate legal representation.



- Help the client comply with court orders.
- Conduct safety planning and refer her to a domestic violence advocate.
- Request economic supports and other things entitled to the non-offending parent.
- Obtain competent interpreters for clients who are monolingual or who have limited English proficiency.
- Receive ongoing training on relevant issues impacting co-occurrence cases.
- Engage in self-care activities.

### *Legal Department Attorneys*

Legal Department attorneys represent the circuit's Juvenile Officer and deputies as they carry out their statutory duty to facilitate the care and protection of children who come within the jurisdiction of the court. This entails, among other things, screening and prosecuting cases of child abuse/neglect, filing child protection orders, and seeking the termination of parental rights. Unlike parents' attorneys or GALs, no formal standards or recommendations have been developed for prosecuting attorneys who handle juvenile abuse and neglect proceedings. Most information is aimed at child protection workers. Best practices have been gleaned from those documents and as such, Legal Department attorneys should:



- Closely examine petitions before they are filed to determine whether:
  - ✓ Evidentiary standards exist to believe that a child has been abused/neglected;
  - ✓ In accordance with the law and court policy, the facts support the placement of the abused/neglected child in protective custody;
  - ✓ An informal or voluntary case is more appropriate;
  - ✓ Domestic violence is the sole basis for the petition and if so, strategize if the family can be assisted outside of the court system;
  - ✓ Reasonable efforts were met to avoid removal of the child;
  - ✓ The mother's address needs to be removed from the court filings; and
  - ✓ A child protection order should be recommended and filed as per the court's policies and procedures.
- Require that court orders and service plans are clear and specific.
- Ensure service plan recommendations are tied to the reason the family is involved in the court system and that there are separate, holistic, individualized plans for each member.
- Promote actions that link the safety of the battered mother and child and seek to keep the child in the care and custody of the non-offending parent whenever possible.
- Build relationships with DJOs to facilitate open dialogues about case handling and filing.
- Provide trainings to DJOs and CASA volunteers caseworkers about the legal process and expectations about their practices from the court and Legal Department.
- Keep the focus of the court system on the offending parent.
- Remain involved in the monitoring of the family's progress. State attorneys should know if the caseworkers have been actively assisting the family and how they are helping remove any barriers.
- Ensure that information gathering and sharing is being conducted in a confidential manner.
- Establish effective methods of communication with other attorneys involved in co-occurrence cases.
- Bring to the attention of the court any linguistic needs of the parties.
- Receive ongoing training on relevant issues impacting co-occurrence cases.
- Ensure information that could compromise the safety of either the parent or child is removed or offered to the court in a way that will minimize harm.

## Judges

In co-occurrence cases, judges are the overseers of not only the legal response, but also the social service response to families. It is imperative that judges use their oversight authority to enhance the safety and protection of the children and battered mothers appearing before them and to hold batterers accountable. Judges are enforcers and interpreters of existing laws and have the ability to establish courtroom policies and procedures that are respectful and promote adult victim and child safety. Outside of the courtroom, judges are often community leaders, and can play vital roles in the effort to coordinate systems, end violence against women, and leverage needed resources.

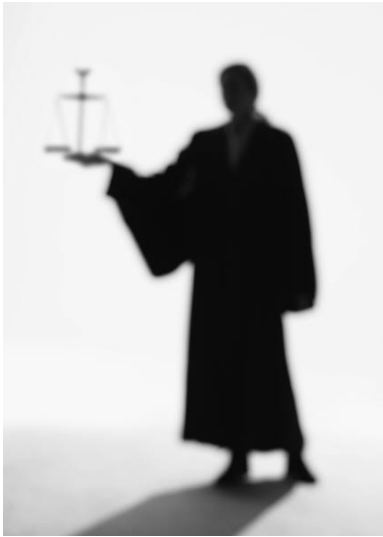
When it comes to co-occurrence cases, judges have many areas of inquiry and the examination must consist of more than just checking boxes off of a list. Instead, the judge must undertake a thorough evaluation of the best interests of the child. By asking DJOs, CD representatives, attorneys, and all service providers about their actions in the case, judges are relaying their expectations of what professionals should be doing outside and within the courtroom to assist the family. The role and responsibilities of judges are too lengthy to list. The following is a sampling. Judges should:

Judges should appoint separate attorneys for each parent in dependency cases involving domestic violence. In compliance with the requirements of the Child Abuse Prevention and Treatment Act (CAPTA), a GAL or attorney should be appointed for the child as well. The court should set standards for competent, well-trained attorneys.

*Recommendation 66, the Greenbook*

- Review petitions carefully to determine if the burden of proof has been met and language included identifies the offending parent.
- Appoint separate attorneys for parents and a GAL at the earliest opportunity, preferably before the first hearing.
- Ensure that appointed attorneys have sufficient time and resources (caseload limits, adequate compensation, etc.) and that they are qualified and held accountable for poor practice.
- Discharge a GAL and appoint another if the GAL fails to perform their duties. RSMo §210.160(3).
- Ensure attorneys, social service providers, and all involved professionals in co-occurrence cases are properly trained on domestic violence and other related issues.
- Balance the least restrictive intrusion into family autonomy with the safety and permanency needs of each child.
- Use interpreters that are trained on co-occurrence issues and have standard court forms translated into different languages.
- Hold compliance hearings for the batterer without requiring attendance of the victimized parent. Respond swiftly when non-compliance arises.
- Inquire whether the battered parent has been offered the opportunity to meet with a domestic violence advocate.
- Confirm that separate case plans have been created, culturally competent and relevant services have been provided to all parties, and that the victim has not been mandated into domestic violence services or joint services with the batterer.
- Offer all the relief afforded to a non-offending parent and restore her economic self-sufficiency.
- Provide children with an opportunity to express their needs to the court.

- Hear cases promptly and avoid delays in decision-making, with a view toward timely decision-making and thorough review of issues.



- Ask questions of attorneys and service providers at every hearing so that the court has a complete picture of the events leading up to intervention by the child welfare agency or if at dispositional hearing, a complete picture of the status of the case.
  - Foster an environment where attorneys can zealously advocate for their client and not be viewed as aggressive. Attorneys in co-occurrence cases can be concerned that if they are not seen as “cooperative” that future clients may be punished by social service providers or the court.
  - Review information *in camera*, hold pre-hearing conferences, entertain the idea of separate hearings, and take other steps to protect the confidentiality of adult victims and children where information sharing with the court will put one or both at risk.
- Place safeguards on contact between batterers and children for safety of both the child and the victimized parent.
- Enter findings as to whether reasonable efforts were made to either prevent or eliminate the need for removal of the child and after removal, to make it possible for the child to return home. RSMo §211.183 and 211.447
- Screen relatives and other third parties if to be used for placement or visitation to determine their level of understanding of domestic violence, their willingness to comply with court orders, and their potential for complicity with the batterer.
- Guarantee that clerks of court are trained on procedural issues regarding adult and child protection orders, waiver of summons for service when domestic violence is a factor, and courteous interactions with victims of domestic violence.
- Order the child to remain in the care and custody of the non-offending parent whenever possible and consider using legal remedies like child protection orders to fulfill this goal.
- Avoid conflicting court orders. Court personnel should check for existing restrictions that may impact family time through protection orders, conditions of probation, or other preexisting court orders.
- Require the batterer to attend and complete a certified BIP and refer him to the batterer compliance coordinator so that the court has ongoing monitoring of his compliance.
- Question whether professionals are using a strength-based versus a deficit-based approach to examine protective and parenting skills of the victim parent.
- Establish policies and procedures on courthouse safety.
- Receive ongoing training and engage in self-care activities.

## Deputy Juvenile Officer (DJOs)

As an officer of the court, DJOS have the responsibility for conducting investigations and providing the court with necessary information about cases. The DJO is the first court professional to review whether sufficient legal basis exists to have court involvement either formally or informally. The Family Court had developed Guidelines for Case Management to assist DJOs in managing co-occurrence cases during the investigation, assessment, and service planning stages. Some of these guidelines require the DJO to:



- Schedule a meeting with the family and assigned CD caseworker before deciding whether to handle a case informally or formally.
  - Work with CD and other child welfare organizations to protect the child from harm.
  - Inform the GAL of all aspects of the case of which they have knowledge or belief. RSMo §210.160 (2)
  - Provide service of process on all parties to the case.
  - Assure that parties adhere to court orders and assist with the elimination of any barriers preventing such adherence.
  - Submit status reports to the court prior to hearings.
  - Screen all families for domestic violence.
  - Carefully screen relatives for placement or visitation options.
  - Create separate service plans tailored to each the unique needs of each party and avoid responses that tie the batterer and victimized parent together like mediation or joint counseling.
  - Afford privacy in the adult victim's service plan.
  - Recommend visitation arrangements that prioritize the safety of the child and the adult victim.
  - Link battered parents to a domestic violence resource specialist immediately for safety planning and other assistance.
  - Recommend course of action that links the safety of the child and battered parent.
  - Attend case staffings and FSTMs.
- 
- Speak to victim about wishes for protection order if one is not in place. If victim does not want one but it is the only means of keeping the non-offending parent and child together discuss with the legal department and domestic violence advocate how to proceed.
  - Ensure confidentiality and protection of privacy and identifying information. Seek assistance from legal department if victim's address should be kept confidential because she is living in a domestic violence shelter or some other confidential location.
  - Receive ongoing training on relevant issues impacting co-occurrence cases.

## Court Appointed Special Advocates (CASA)<sup>59</sup>

The role of CASA is to advocate for abused and neglected children in need of safe and permanent homes, through efforts of trained community volunteers. CASA volunteers consult with all parties, including parents, children, DJOs, CD, and other related professionals. Judicial officers, DJOs, CD workers and GALs make referrals to CASA, and if the case meets appointment criteria and a CASA volunteer is available, then a CASA will be appointed to the case. The CASA Case Advocacy Coordinator should appoint CASA volunteers to co-occurrence cases who have a knowledge-base about domestic violence beyond the initial CASA training. In co-occurrence cases, CASAs should:

- Serve as an objective gatherer and reporter of facts and to advocate in court for the child's safety and permanence.
- Attend any staffings, including permanency planning review team meetings.
- Assist GALs when requested.
- Prepare a court report that is made available to the judicial officer during court proceedings.
- Assist children in feeling safe to talk about the domestic violence.
- Help reassure and reinforce that the violence was not the fault of either the child or victimized parent.
- Assist in protecting the confidentiality of the victimized parent so that safety is not compromised.
- Recommend that the child and parents be connected to resources that specialize in domestic violence.
- Assist children in maintaining the bond with their parents in a manner that is safe.
- Make every effort to link the safety of the child and victim parent.
- Monitor service plan implementation.
- Recommend, whenever possible, that the child remain safely in the care of the victimized parent.
- Utilize supportive, non-coercive, and strength-based interventions that promote the safety of adult victims and their children.
- Help hold the battering partner accountable by making recommendations to the court that keep the responsibility of stopping the abuse with the abusive partner.
- Be part of the community's collaborative response to the co-occurrence of domestic violence and child abuse/neglect.
- Receive ongoing training on relevant issues impacting co-occurrence cases.



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<sup>59</sup> Excerpts from the Guide to the Family Court, Family Court of St. Louis County (revised 2004).

## **Conclusion:**

This Guide is to help lay the foundation for a common framework for court professionals. The Family Court of St. Louis County recognizes that co-occurrence is unique and warrants special consideration. If legal and social institutions respond in isolation or from competing frameworks, family interventions can be detrimental to children and/or the victimized parent, ultimately undermining the goal of safety, stability, and well-being. Judges, attorneys, and other court professionals must understand and appreciate the complexities involved in co-occurrence cases and work in coordination to assure that the best interests of the child are upheld, reducing re-victimization of the battered parent, and placing accountability on the abusive partner.

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## APPENDIX A

### GLOSSARY

**Abuse:** Includes but is not limited to the occurrence of any of the following acts, attempts, or threats against a person who may be prosecuted under sections 455.010 to 455.085, Missouri Revised Statutes: assault, battery, coercion, harassment, sexual assault, unlawful imprisonment.

**Accountability:** An obligation or willingness to accept responsibility or to account for one's actions. A guiding principle of the *Greenbook* is that communities hold perpetrators responsible for their abusive behavior and provide a variety of legal interventions and social services to stop the violence.

**Assault:** Purposely or knowingly placing or attempting to place another in fear of physical harm.

**Battery:** Purposely or knowingly causing physical harm to another with or without a deadly weapon.

**Best Practices:** Standard, technique or methodology that, through experience and research, has proven to reliably lead to a desired result. A commitment to using the best practices in any field is a commitment to using all the knowledge and technology at one's disposal to ensure success.

**Child Abuse:** Physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by those responsible for the child's care, custody, and control.

**Children's Division (CD):** Division in the Missouri Department of Social Services tasked with the investigation and handling of child abuse/neglect cases in each county.

**Child Maltreatment:** The physical abuse, sexual abuse, and emotional abuse of children ("acts of commission") and the physical neglect, emotional neglect or deprivation of children ("acts of omission").

**Child Neglect:** Failure to provide, by those responsible for the care, custody, and control of the child, the proper or necessary support, education as required by law, nutrition or medical, surgical, or any other care necessary for the child's well-being.

**Child Protective Services (CPS):** A unit in Family Court that handles the investigation and case management of child abuse/neglect cases.

**Child Witnesses to Domestic Violence:** Encompasses a wide range of experiences for children whose mothers are being abused by an intimate partner. It includes the child who actually observes abuse; overhears, but does not observe the abuse; or is exposed to the aftermath of the abuse, e.g. mother's bruises or visible injuries.

**Coercion:** Compelling another by force or threat of force to engage in conduct from which the latter has a right to abstain or to abstain from conduct in which the person has a right to engage.

**Collaborate:** The process of individuals or organizations sharing resources and responsibilities jointly to plan, implement, and evaluate programs to achieve common goals. The emphasis is on fundamentally altering traditional agency relationships. Formal collaboration requires individual agencies to commit considerable amounts of resources on behalf of individual agencies.

**Community Collaborative:** An interdisciplinary group, with representatives from partner agencies, that works together toward a common vision in implementing the goals and objectives of the *Greenbook* Initiative throughout the greater St. Louis area.

**Co-occurrence:** When a child is independently abused or neglected in a family where domestic violence is also occurring. The abuse or neglect may or may not be related to the domestic violence.

**Coordinate:** Bring entities into causal, complementary, parallel, or reciprocal relationship; to harmonize. The *Greenbook* Initiative facilitates coordinated interventions within and between partners.

**Competence:** Acquisition of knowledge, skills, and experience necessary for the development and implementation of services to different groups served.

**Cross-training:** Training process through which members of one system learn about the basic policies and practices of another system. Cross-training is used to improve cooperation and communication between professionals who traditionally have had little contact with each other.

**Culture:** The shared values, traditions, norms, customs, arts, history, folklore, and institutions of a group of people that are unified by race, ethnicity, language, nationality, or religion.

**Cultural Diversity:** Differences in race, ethnicity, language, nationality, or religion among various groups within a community. A community is said to be culturally diverse if its residents include members of different groups.

**Cultural Competency:** The ability of practitioners to function effectively in the context of racial, ethnic, religious, or cultural differences by responding to the unique strengths and concerns of families

**Cultural Sensitivity:** An awareness of the nuances of one's own and other cultures.

**Deputy Juvenile Officer (DJO):** An officer of the court who has responsibility for conducting investigations, monitoring cases, and providing recommendations to the court.

**Domestic Violence:** Pattern of assaultive and coercive behaviors, including physical, sexual and psychological attacks, as well as economic coercion that adults or adolescents use against their intimate partners.

**Ex Parte Order of Protection:** Order of protection issued by the court before the respondent (alleged abuser) has received notice of the petition or an opportunity to be heard on it.

**Family Assessment and Services:** Approach which provides for a prompt assessment of a child and their family when the child has been reported to the CD as a victim of abuse or neglect by a person responsible for that child's care, custody or control. Family assessments include the provision of community-based services to reduce the risk of abuse and neglect and to support the family.

**Family or Household Member:** Spouses, former spouses, adults related by blood or marriage, adults who have lived together in the past, an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, and adults who have a child in common regardless of whether they have been married or have lived together at any time.

**Family Violence:** A broader concept than domestic violence that can include child abuse and maltreatment, child-to-parent violence, or sibling violence.

**Full Order of Protection:** Order of protection issued after a hearing on the record where the respondent has received notice of the proceeding and has had an opportunity to be heard.

**Greenbook:** Shorthand for *Effective Intervention in Domestic Violence & Child Maltreatment: Guidelines for Policy and Practice* (green cover) published by the National Council of Juvenile and Family Court Judges. This resource provides principles and recommendations for system change within the courts, child protection, domestic violence services, and the larger community.

**Guardian *ad Litem* (GAL):** An attorney assigned to represent the best interests of the child.

**Harassment:** Engaging in a course of conduct directed at a specific adult that serves no legitimate purpose, and would cause a reasonable adult to suffer substantial emotional distress.

**Initiative:** A new measure or course of action: introductory. The *Greenbook* Initiative introduces to the community an opportunity for a bold new coordinated approach to improve outcomes for battered women and their children.

**Investigation:** The collection of physical and verbal evidence to determine if a child has been abused or neglected.

**Non-offending Parent:** Parent who is the victim of domestic violence and is not responsible for the conditions that led to an abuse or neglect complaint being filed

**Offending Parent/Partner:** The party who is responsible for inflicting the abuse against the other parent and child abuse/neglect in the home.

**Paradigm Shift:** Belief system or attitudinal change that takes on a new model or pattern to govern thinking and behavior. The *Greenbook* Initiative challenges all three systems to change policies and procedures based on the *Greenbook's* principles and best practices.

**Partner:** An associate; sharer; participant. Three key partners in the Initiative are the Family Court of Saint Louis County, Missouri Department of Social Service, Children's Division, and area domestic violence service providers.

**Principle:** a governing law of conduct. Guiding principles for the implementation of the Initiative are to keep battered women and their children **SAFE**.

Safety, stability and well being for victims; keep children with their non-offending parent

Accountability for the abuser

Family-friendly interventions that respect differences and build on strengths

Entry points for service are accessible and provide a range of options

**Safety:** Condition of being safe; freedom from danger or hazard.

**Sexual Assault:** Causing or attempting to cause another to engage involuntarily in any sexual act by force, threat of force or duress.

**Stability:** To make stable, steadfast, or firmly established. The *Greenbook* Initiative recommends coordinated interventions by partners that will provide the consistency, predictability, and on going support that children and battered women need to maintain safety and well-being for themselves and their children.

**Stalking:** Purposely and repeatedly harassing or following another with the intent of harassing that person.

**System Change:** the Initiative seeks to institutionalize change by having partner agencies formally adopt (codify) the policies, procedures, screening protocols, best practices, cross training, case management, and other *Greenbook* recommendations that effectively address the co-occurrence of domestic violence and child maltreatment.

**Unlawful Imprisonment:** Holding, confining, detaining or abducting another person against that person's will.

**Well-Being:** Condition of being well, comfortable, happy and content. The Initiative challenges partners to go beyond providing physical safety to victims to supply those interventions that will promote the social, emotional and psychological health of victims.

## APPENDIX B

### EXAMPLES OF WAYS IN WHICH A PERSON MAY BE VICTIMIZED

#### Physical Abuse

- Hitting, slapping, grabbing, burning, pushing, or punching her.
- Biting, spitting, strangling, or scratching her.
- Burning her with cigarettes or other items.

#### Stalking & Harassment

- Monitoring her day-to-day activities and following her to and from work or other places.
- Monitoring her phone calls or not allowing her to make/receive calls.
- Calling her friends and family in an effort to monitor her actions.
- Showing up at her place of employment or other places without reason or notice.
- Sending repeated, unwanted, intrusive, and frightening communications via the phone, mail, text, or e-mail and cyber-stalking.
- Securing personal information without her consent.
- Continuing any or all of these activities after the relationship is over.

#### Emotional Abuse

- Telling the victim's family or friends lies about her.
- Belittling, embarrassing, or humiliating her in front of family and friends.
- Making her feel guilty for all the problems in the family.
- Accusing her of trying to attract or of sleeping with other people.
- Telling her that she is crazy.
- Calling her names and telling her and others that she is worthless.

#### Economic Abuse

- Preventing her from getting or keeping a job.
- Forcing her to work "under the table" when she does not have a work permit or threatening to report her for working illegally.
- Preventing her from obtaining job training or schooling.
- Forcing her to sign papers that she does not understand, including legal documents.
- Requiring her to ask for money or taking the money she has earned.
- Preventing access to bank accounts or other income.
- Not filing papers in order for her to gain legal or working status in the country.
- Using her social security number to secure money and then ruining her credit.

#### Sexual Abuse

- Raping her or forcing her to engage in other sexual acts.
- Denying her contraception or protection against sexually transmitted diseases.
- Forcing her to engage in sexual acts with other people or have sex in front of the children.
- Calling her sexualized names.
- Withholding sex or affection as punishment.

#### Intimidation

- Making her afraid by using looks, actions, or gestures.



- Destroying property, including items with special meaning to her or the children.
- Abusing, killing, or threatening to harm pets.
- Threatening to use or past use of weapons.
- Hiding or destroying important papers, including health care cards, driver's license, passport, or immigration papers.
- Physically preventing her from leaving the house or a room in the house.
- Subjecting her to reckless driving.

### **Coercion and Threats**

- Making or carrying out threats to do something to hurt her, her children, friends, or family members.
- Threatening to harm or harass her employer or co-workers.
- Threatening to leave her or to commit suicide if she leaves.
- Threatening to withdraw immigration papers that legalize her residency or report her undocumented status to the authorities.
- Threatening to take the children away or out of the country.
- Threatening to make her look crazy and like she is a bad parent by calling police, children's services, or a psychiatrist about her if she tells anyone about the abuse.
- Threatening to reveal her sexual orientation to others.
- Pressuring her to engage in substance abuse, fraud, or other crimes.

### **Isolation**

- Limiting her involvement outside the home.
- Not allowing her to learn English or keeping her from friends or family who speak her language.
- Not allowing her access to mobility devices.
- Not permitting her to partake in activities that are important to her, including religious ones.

### **Minimizing, Denying & Blaming**

- Making light of abuse and not taking her concerns about it seriously.
- Denying that the abuse is happening.
- Shifting responsibility for the abusive behavior (blaming alcohol, stress, etc.).
- Saying she caused the violence.
- Using jealousy to justify actions.

### **Health-Related Abuse**

- Withholding medication from her or the children.
- Not permitting her to take the children to the doctor.
- Not permitting her to seek medical attention.
- Not letting her get prenatal care.
- Withholding, misusing, or delaying needed supports such as breaking or withdrawing adaptive equipment.

## APPENDIX C

### EFFECTS OF DOMESTIC VIOLENCE ON CHILDREN

*These effects may be shown by children for a variety of reasons or explained by a number of factors in a child's life.*

#### Emotional

- Feeling guilty for the abuse and for not stopping it.
- Grieving for family and personal losses.
- Confusion regarding conflicting feelings toward the parents.
- Fearful of abandonment, expressing feelings, the unknown, or of personal injury.
- Angry about the violence and the chaos in their lives.
- Depressed, feeling helpless and powerless.
- Embarrassed about events and dynamics at home.

#### Cognitive

- Believe they are responsible for the violence.
- Blame others for their own behaviors.
- Believe that it is acceptable to hit people they care about in order to get what they want, to express their anger, to feel powerful, or to get others to meet their needs.
- Have a low self concept originating from a sense of powerlessness he/she has in the family.
- Do not ask for what they need or what they want.
- Do not trust.
- Believe feeling angry is bad, because people get hurt.
- Have rigid stereotypes of gender/family roles, for example to be a boy means...to be a girl means to be a man, woman, husband, wife means, etc.

#### Behavioral (often seen in opposite extremes)

- Act out vs. withdraw.
- Overachieve vs. underachieve.
- Refusal to go to school.
- Caretaking, more concern for others than self; role reversal – act as parent.
- Aggressive vs. passive.
- Rigid defenses (aloof, sarcastic, defensive, rigid view of right versus wrong).
- Excessive attention seeking (often using extreme behaviors).
- Bedwetting and nightmares.
- Out of control behavior, not able to set own limits or follow directions.

#### Social

- Isolated from friends and relatives.
- Stormy relationships - start intensely and end abruptly.
- Difficulty in trusting, especially adults.
- Poor conflict resolution and anger management skills.
- Excessive social involvement (to avoid home life).
- May be passive with peers, or bully peers.
- Engage in exploitive relationships either as perpetrator or victim.
- Play with peers gets exceedingly rough.

#### Physical

- Somatic complaints (headaches, stomachaches).
- Nervous, anxious and a short attention span.
- Tired, lethargic.
- Frequently ill.
- Poor personal hygiene.
- Regression in development tasks (bedwetting, thumb sucking - depending on age).
- Desensitization to pain.
- High risk play and activities.
- Self-abuse.

## APPENDIX D

### INTERVIEWING TIPS & QUESTIONS FOR VICTIM, CHILD AND BATTERER

#### When Speaking to a Victim of Domestic Violence

##### Tips

- Have conversations in a comfortable, private, and confidential setting.
- Explain any limits on confidentiality and duty to report before asking questions.
- Explain to her why you are asking her questions and how the information collected will be used.
- Normalize asking about domestic violence by indicating that it is part of your routine interview or check-in.
- Do not discuss abuse with her in front of anyone else.
- Use open ended questions.
- Ask her if she feels comfortable and safe talking about the violence.
- Do not push her to speak about the violence and respect her decision not to.
- Reassure her that the violence is not her fault and that you believe her.
- Listen.
- Communicate in a way that is positive and supportive.
- Approach her from a strength-based perspective.
- Validate what the woman is saying during disclosure.
- Believe her story and support her.
- Do not ask her why she stayed or remains in the relationship.
- Ask her about things she does to protect herself and her children. Encourage her to work with someone to create a safety plan for her and her children.
- Ask her about what has and has not worked in the past to keep her and her children safe.
- Ask her about her needs (holistically).
- Connect her to a domestic violence advocate as soon as possible.
- Provide her with a written list of community resources. Make sure they are in a language that she understands.
- Know how to explain all options and resources that are available to her and provide meaningful referrals.
- Don't ask her what she did to provoke him.
- Don't tell her what she needs to do next.
- Consider how her actions have been survival strategies. For example, staying with the perpetrator may be safer than leaving.
- Give her multiple opportunities to ask questions and encourage her to ask if she does not understand.
- Make a plan for how future communication can occur safely between you and her/her children. Do not leave messages with other family members or on an answering machine or voicemail unless she has told you that it is safe.
- If allowable under confidentiality laws and without sharing identifying information, process the information you received with others knowledgeable in co-occurrence issues, such as supervisors and domestic violence specialists, in order to determine what and if further actions are needed.
- Inform the abused parent about what your actions will be and why.

##### Questions

- I'm worried about you. Is everything okay at home?
- I noticed .... (an injury, broken piece of furniture, etc). Is that something you want to talk about?
- What happens when you and your partner fight or have differences of opinion?
- Tell me about your relationship. What is good about it and what are the problems?
- How do decisions get made?
- How do you divide up household responsibilities? Financial matters?
- Do you feel that your partner is jealous or possessive? Does he prevent you from going to places? Seeing people?
- Does he follow you? Listen in on your phone calls?
- Has he accused you of being unfaithful? Called you degrading names?
- Has he broken any items at home?
- Hurt or threatened to harm pets?
- Used weapons or threatened to use weapons?
- Threatened to kidnap the children?
- Threatened to injure him or her, him or herself, the children, or others?
- How is his relationship with the children?
- How is your relationship with the children?
- Has anyone ever spoken to your partner about the violence? How has he reacted?
- Have you ever thought of leaving? How do you think your partner would respond?
- What things do you do when your partner is angry or abusive to protect yourself? Your children?
- How do you think the children have been affected by domestic violence?
- Are you concerned about the children having contact with him? What things can we put in place to help protect you and the children during visitation?
- How do you think he is going to react if he learns that this conversation took place?

### **When Speaking to a Child**

#### Tips

- Use interview strategies that are non-suggestive and appropriate to the age and developmental stage of the child.
- Learn about the child beyond his experience of the abuse (i.e. school, hobbies, etc.).
- Find out how the children are keeping themselves safe. Do they have access to a phone? Do they know about 911? Can they go to a neighbor's house? Be sure they know it's not safe to try to stop the violence, even though they might really want to.
- Reassure the children that the violence is not their fault nor is it the fault of the parent being hurt.
- Try not to speak negatively about the perpetrator. Children often love him. They just want the violence to stop.
- Acknowledge and validate children's pain, fear, sadness and anger (age appropriate—meet them where they are at). Understand that while children may provide accurate information, their answers may also involve misinterpretations (or developmentally appropriate but immature interpretations) of events, statements or dynamics, or be influenced by input from one or both parents.
- Find out if there is someone they can talk to about the problem if they need to (e.g., from family, school, faith community, sports team, summer program). Help them think of two or three people. Try to get each child connected to an ongoing support system outside of the home.

- Assist children in understanding their experience and their mother's experience to help them recover respect for her. For example, let them know that you are proud of their mother for seeking help because you know she wants to protect herself and protect them.
- Acknowledge that the children may miss their father, but wait until you have built some trust before gently letting them know that his behaviors are not okay, that hitting hurts and that mom (or anyone) doesn't deserve to be hit, scared or made fun of.
- Support and reinforce the children's closeness to their abused parent.
- If there is more than one child in a family, speak to the children separately as each may have a different reaction and experience related to the domestic violence.
- Be aware that a child may take responsibility for the abuse or side with the perpetrator.
- Let the child know what information from your conversation you will be sharing with others.
- Be careful what you share with the child about what you learned from their abused parent. A child may inform the batterer of this which can compromise the adult victim's safety.

### Questions

- What happens when you do something wrong? How are you disciplined?
- What happens when the adults fight? Does anyone hit, shove or push? Does anyone yell? Does anyone throw or break things?
- Are you afraid to talk about this?
- What do you do or where do you go when the fighting happens?
- Are you ever afraid when your parents fight?
- Have you ever been hurt by any of their fights? Has anyone else been hurt?
- Where do you go during their fights? What do your brothers or sisters do during fights?
- Do you talk to anyone about the fighting at home?
- Have you felt like hurting yourself? Someone else?
- Have the police ever come to your house because of a fight? Have you seen anything broken in the house because of fighting?
- Are you afraid to be at home? Afraid to leave your mother (in a protective sense)?
- Do you think about the violence while at school or playing?

### **When Speaking to a Perpetrator of Domestic Violence**

#### Tips

- Interview the batterer in an environment that you are comfortable with.
- Let others know that you will be speaking with him.
- Allow him to talk about himself.
- Begin with more general questions then follow up with more specific and detailed ones.
- Never relay or use the words of the victimized parent or child.
- If you mention domestic violence, use corroborating reports from police, neighbors, schools, medical records, court documents, or referrals to back up the statements.
- Document controlling and abusive behaviors.
- Link to someone qualified to conduct a dangerousness assessment.
- Establish rapport and treat him with respect, but never condone violence.
- Do not reveal any information about the adult or child's safety plan.
- Consider NOT interviewing the alleged perpetrator if it poses a substantial risk to the adult victim or child.
- Normalize the fact that you are discussing domestic violence.

- Remember that batterers are not “out of control”. Instead, they are exerting the control that they believe is “rightfully” theirs.
- Expect him to minimize, blame, or deny inflicting abuse. If he denies domestic violence, do not try to force disclosure; move on to other subjects.
- If you are concerned about your own safety, end the interview.

### Questions

- Tell me about your relationship. What is good about it and what are the problems?
- How do decisions get made? How do you make decisions about money? Whose name is on the accounts?
- How do you divide up household responsibilities?
- What happens when you and your partner disagree?
- Do you ever yell? Call her names? Break things?
- What do you do when you feel jealous or possessive?
- Does your partner ever seem afraid of you?
- Do you or your partner use alcohol or drugs? How often?
- Has your partner been hurt during an argument? What happened?
- Have you ever used force against your partner? Pushed her? Shoved her? Hit her? Choked her? If so, tell me about the worst episode. What was the most recent episode?
- Have the children ever been hurt? Where are they when this happens?
- Describe how you discipline your children. How does your partner?
- Describe any problems your child has in school or with friends.
- What type of relationship do you have with your child? What would you like to see improve? What do you like the most?
- What have you done to stop the violence? Whom have you asked for help? What happened?
- Who are friends and family members that you can talk to?

APPENDIX E

MISSOURI ADULT ABUSE ACT AT A GLANCE

	ADULT ORDERS	CHILD ORDERS
<b>WHO CAN OBTAIN RELIEF?</b>	(§455.010) Any <b>adult</b> , defined as a person 18 years of age or older or otherwise emancipated. This person is called the petitioner.	(§455.501 & §455.503) Any <b>parent, guardian, guardian ad litem, court-appointed special advocate, or juvenile officer</b> on behalf of a child (any person under 18 years of age). This person is called the petitioner.
<b>WHOM CAN THEY OBTAIN RELIEF AGAINST?</b>	(§455.010) A <b>family or household member</b> (a spouse, a former spouse, adults related by blood or marriage, adults residing together or who resided together in the past, an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, or adults who have a child in common, regardless of whether they have been married or have resided together) or an <b>adult stalking</b> the victim. This person is called the respondent.	(§455.501 & §455.505) A <b>former or present household member</b> (an adult living in the same household or previously living in the same household), an <b>emancipated child</b> or a <b>person stalking</b> a child. This person is called the respondent.
<b>WHAT ACTS BY THE ABUSER FORM THE BASIS FOR RELIEF?</b>	(§455.010) <b>Abuse</b> , which includes, but is not limited to, the occurrence of any of the following acts, attempts, or threats against a person who may be protected under the Adult Abuse Act: <b>assault, battery, coercion, harassment, sexual assault or unlawful imprisonment. Stalking</b> also is covered by the Adult Abuse Act.	(§455.501) <b>Abuse</b> , which involves any <b>physical injury, sexual abuse or emotional abuse</b> inflicted on a child other than by accidental means by an adult household member, or <b>stalking</b> of a child. Discipline, including spanking, administered in a reasonable manner is not to be construed as abuse.
<b>WHAT RELIEF IS AVAILABLE?</b>	(§455.045) <b>Ex Parte Order of Protection.</b> (§455.050) <b>Full Order of Protection.</b>	(§455.520) <b>Ex Parte Child Order of Protection.</b> (§455.523) <b>Full Child Order of Protection.</b>
<b>WHAT IS THE PROCEDURE FOR OBTAINING RELIEF?</b>	(§§455.015-455.032) <b>Petitioning</b> court for Order of Protection. (§455.035) <b>Obtaining Ex Parte</b> Order of Protection if there is an immediate and present danger. An <i>Ex Parte</i> Order of Protection is not always granted, but the court always should set a hearing date. (§455.040) <b>Hearing</b> on Full Order of Protection held within 15 days after petition is filed, unless there is good cause for a continuance.	(§§455.503-455.510) <b>Petitioning</b> court for Child Order of Protection. (§455.513) <b>Obtaining Ex Parte</b> Child Order of Protection if there is an immediate and present danger. An <i>Ex Parte</i> Order of Protection is not always granted, but the court always should set a hearing date. (§455.516) <b>Hearing</b> on Full Child Order of Protection within 15 days after petition is filed, unless there is good cause for a continuance.

## MISSOURI ADULT ABUSE ACT (CONTINUED)

	ADULT ORDERS	CHILD ORDERS
<b>HOW LONG CAN AN ORDER LAST, AND IS IT RENEWABLE?</b>	(§455.040) An Order of Protection lasts for a <b>minimum of 180 days</b> and a <b>maximum of one year</b> . It can be renewed twice; each renewal can last up to one year. No new incident of abuse is required if the order is renewed before the old one expires.	(§455.516) A Child Order of Protection can last for a <b>minimum of 180 days and a maximum of one year</b> . The order can be renewed twice; each renewal can last up to one year. No new incident of abuse is required if the order is renewed before the old one expires.
<b>WHAT HAPPENS IF ANOTHER COURT MAKES A CUSTODY ORDER?</b>	(§455.060) The portion of the Order of Protection relating to <b>custody, visitation, support and maintenance</b> is no longer valid, but the prohibitions regarding abuse remain in effect.	(§455.528) The portion of the Order of Protection relating to <b>custody, visitation, support and maintenance</b> is no longer valid, but the prohibitions regarding abuse remain in effect.
<b>CAN AN ORDER BE MODIFIED?</b>	(§455.060 & §455.065) <b>Yes</b> . Upon the filing of a motion and a showing of changed circumstances.	(§455.528 & §455.530) <b>Yes</b> . Upon the filing of a motion and a showing of changed circumstances.
<b>ARE PROTECTION ORDERS FROM OTHER STATES ENFORCEABLE IN MISSOURI?</b>	(§455.067) <b>Yes</b> . The Adult Abuse Act provides that orders from other states must be given "full faith and credit" in Missouri. A procedure for registering foreign orders is contained in the statute. However, registration does not have to occur for such orders to be enforced.	<b>Uncertain</b> . No statutory or legal precedent at this time. Child orders might be covered by the federal Violence Against Women Act. Consult an attorney.
<b>WHAT HAPPENS IF AN ORDER IS VIOLATED?</b>	(§455.085 & §455.090) The violator can be <b>arrested</b> and <b>prosecuted</b> for a crime. Arrestable violations of the terms and conditions of a protection order include abuse, stalking, disregard of child custody provisions, communication initiated by the respondent, or entrance upon the premises of the petitioner's dwelling unit. If the violation involves the failure to surrender custody of a minor child to the person to whom custody is awarded, the violator must be arrested and the <b>child turned over</b> to the custodial parent. A <b>contempt of court</b> action can be brought in the issuing court and the violator can be held in contempt of court. (This sometimes results in a fine and can include jail time.) The court may schedule compliance review hearings to monitor the respondent's compliance with the order, whether or not there has been a violation.	(§455.538 & §455.524) The violator can be <b>arrested</b> and <b>prosecuted</b> for a crime. Arrestable violations of the terms and conditions of a protection order include abuse, child custody and entrance upon the premises of the victim's dwelling unit. A <b>contempt of court</b> action can be brought in the issuing court and the violator can be held in contempt of court. (This sometimes results in a fine and can include jail time.) If the violation involves failure to surrender custody of a minor child to the person to whom custody is awarded, the violator must be arrested and the <b>child turned over</b> to the custodial parent. The court may schedule compliance review hearings to monitor the respondent's compliance with the order, whether or not there has been a violation.



## APPENDIX F

### Selected Missouri Revised Statutes

*statutes appearing below were selected due to their relevance to the Guide and don't necessarily appear in their entirety*

#### ADULT & CHILD PROTECTIVE ORDERS

##### Chapter 455

##### Abuse--Adults and Children--Shelters and Protective Orders

###### Definitions.

455.010. As used in sections 455.010 to 455.085, unless the context clearly indicates otherwise, the following terms shall mean:

- (1) "Abuse" includes but is not limited to the occurrence of any of the following acts, attempts or threats against a person who may be protected pursuant to sections 455.010 to 455.085:
  - (a) "Assault", purposely or knowingly placing or attempting to place another in fear of physical harm;
  - (b) "Battery", purposely or knowingly causing physical harm to another with or without a deadly weapon;
  - (c) "Coercion", compelling another by force or threat of force to engage in conduct from which the latter has a right to abstain or to abstain from conduct in which the person has a right to engage;
  - (d) "Harassment", engaging in a purposeful or knowing course of conduct involving more than one incident that alarms or causes distress to another adult and serves no legitimate purpose. The course of conduct must be such as would cause a reasonable adult to suffer substantial emotional distress and must actually cause substantial emotional distress to the petitioner. Such conduct might include, but is not limited to:
    - a. Following another about in a public place or places;
    - b. Peering in the window or lingering outside the residence of another; but does not include constitutionally protected activity;
  - (e) "Sexual assault", causing or attempting to cause another to engage involuntarily in any sexual act by force, threat of force, or duress;
  - (f) "Unlawful imprisonment", holding, confining, detaining or abducting another person against that person's will;
- (2) "Adult", any person eighteen years of age or older or otherwise emancipated;
- (3) "Court", the circuit or associate circuit judge or a family court commissioner;
- (4) "Ex parte order of protection", an order of protection issued by the court before the respondent has received notice of the petition or an opportunity to be heard on it;
- (5) "Family" or "household member", spouses, former spouses, adults related by blood or marriage, adults who are presently residing together or have resided together in the past, an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, and adults who have a child in common regardless of whether they have been married or have resided together at any time;
- (6) "Full order of protection", an order of protection issued after a hearing on the record where the respondent has received notice of the proceedings and has had an opportunity to be heard;
- (7) "Order of protection", either an ex parte order of protection or a full order of protection;
- (8) "Petitioner", a family or household member or an adult who has been the victim of stalking, who has filed a verified petition pursuant to the provisions of section 455.020;
- (9) "Respondent", the family or household member or adult alleged to have committed an act of stalking, against whom a verified petition has been filed;
- (10) "Stalking" is when an adult purposely and repeatedly engages in an unwanted course of conduct that causes alarm to another person when it is reasonable in that person's situation to have been alarmed by the conduct. As used in this subdivision:

- (a) "Course of conduct" means a pattern of conduct composed of repeated acts over a period of time, however short, that serves no legitimate purpose. Such conduct may include, but is not limited to, following the other person or unwanted communication or unwanted contact;
- (b) "Repeated" means two or more incidents evidencing a continuity of purpose; and
- (c) "Alarm" means to cause fear of danger of physical harm.

**Relief may be sought--order of protection effective, where.**

- 455.020. 1. Any adult who has been subject to abuse by a present or former adult family or household member, or who has been the victim of stalking, may seek relief under sections 455.010 to 455.085 by filing a verified petition alleging such abuse or stalking by the respondent.
2. An adult's right to relief under sections 455.010 to 455.085 shall not be affected by his leaving the residence or household to avoid abuse.
3. Any protection order issued pursuant to sections 455.010 to 455.085 shall be effective throughout the state in all cities and counties.

**Duties of circuit clerks--rules, forms, instructions.**

455.025. Except as provided under section 455.030, clerks under the supervision of a circuit clerk shall explain to litigants not represented by counsel the procedures for filing all forms and pleadings necessary for the presentation of their petition to the court. Notice of the fact that clerks will provide such assistance shall be conspicuously posted in the clerks' offices. The location of the office where a petition can be filed shall be conspicuously posted in the court building. The performance of duties prescribed in this section shall not constitute the practice of law as defined in section 484.010, RSMo. All duties of the clerk prescribed in this section shall be performed without cost to the litigants. The supreme court may promulgate rules as necessary to govern conduct of court clerks under sections 455.010 to 455.085, and shall provide forms for petitions and written instructions on filling out all forms and pleadings necessary for the presentation of the petition to the court.

**Protection orders--ex parte.**

- 455.035. 1. Upon the filing of a verified petition pursuant to sections 455.010 to 455.085 and for good cause shown in the petition, the court may immediately issue an ex parte order of protection. An immediate and present danger of abuse to the petitioner shall constitute good cause for purposes of this section. An ex parte order of protection entered by the court shall take effect when entered and shall remain in effect until there is valid service of process and a hearing is held on the motion.
2. Failure to serve an ex parte order of protection on the respondent shall not affect the validity or enforceability of such order.

**Hearings, when--duration of orders, renewal, requirements--copies of orders to be given, validity--duties of law enforcement agency--information may be entered in MULES.**

455.040. 1. Not later than fifteen days after the filing of a petition pursuant to sections 455.010 to 455.085 a hearing shall be held unless the court deems, for good cause shown, that a continuance should be granted. At the hearing, if the petitioner has proved the allegation of abuse or stalking by a preponderance of the evidence, the court shall issue a full order of protection for a period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year. Upon motion by the petitioner, and after a hearing by the court, the full order of protection may be renewed for a period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year from the expiration date of the originally issued full order of protection. If for good cause a hearing cannot be held on the motion to renew the full order of protection prior to the expiration date of the originally issued full order of protection, an ex parte order of protection may be issued until a hearing is held on

the motion. Upon motion by the petitioner, and after a hearing by the court, the second full order of protection may be renewed for an additional period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year. For purposes of this subsection, a finding by the court of a subsequent act of abuse is not required for a renewal order of protection.

**Temporary relief available.**

455.045. Any ex parte order of protection granted pursuant to sections 455.010 to 455.085 shall be to protect the petitioner from abuse or stalking and may include:

- (1) Restraining the respondent from abusing, threatening to abuse, molesting, stalking or disturbing the peace of the petitioner;
- (2) Restraining the respondent from entering the premises of the dwelling unit of petitioner when the dwelling unit is:
  - (a) Jointly owned, leased or rented or jointly occupied by both parties; or
  - (b) Owned, leased, rented or occupied by petitioner individually; or
  - (c) Jointly owned, leased or rented by petitioner and a person other than respondent; provided, however, no spouse shall be denied relief pursuant to this section by reason of the absence of a property interest in the dwelling unit; or
  - (d) Jointly occupied by the petitioner and a person other than the respondent; provided that the respondent has no property interest in the dwelling unit;
- (3) Restraining the respondent from communicating with the petitioner in any manner or through any medium;
- (4) A temporary order of custody of minor children where appropriate.

**Full or ex parte order of protection, abuse or stalking, contents --relief available.**

455.050. 1. Any full or ex parte order of protection granted pursuant to sections 455.010 to 455.085 shall be to protect the petitioner from abuse or stalking and may include:

- (1) Temporarily enjoining the respondent from abusing, threatening to abuse, molesting, stalking or disturbing the peace of the petitioner;
- (2) Temporarily enjoining the respondent from entering the premises of the dwelling unit of the petitioner when the dwelling unit is:
  - (a) Jointly owned, leased or rented or jointly occupied by both parties; or
  - (b) Owned, leased, rented or occupied by petitioner individually; or
  - (c) Jointly owned, leased, rented or occupied by petitioner and a person other than respondent; provided, however, no spouse shall be denied relief pursuant to this section by reason of the absence of a property interest in the dwelling unit; or
  - (d) Jointly occupied by the petitioner and a person other than respondent; provided that the respondent has no property interest in the dwelling unit; or
- (3) Temporarily enjoining the respondent from communicating with the petitioner in any manner or through any medium.

2. Mutual orders of protection are prohibited unless both parties have properly filed written petitions and proper service has been made in accordance with sections 455.010 to 455.085.

3. When the court has, after a hearing for any full order of protection, issued an order of protection, it may, in addition:

- (1) Award custody of any minor child born to or adopted by the parties when the court has jurisdiction over such child and no prior order regarding custody is pending or has been made, and the best interests of the child require such order be issued;
- (2) Establish a visitation schedule that is in the best interests of the child;

- (3) Award child support in accordance with Supreme Court rule 88.01 and chapter 452, RSMo;
  - (4) Award maintenance to petitioner when petitioner and respondent are lawfully married in accordance with chapter 452, RSMo;
  - (5) Order respondent to make or to continue to make rent or mortgage payments on a residence occupied by the petitioner if the respondent is found to have a duty to support the petitioner or other dependent household members;
  - (6) Order the respondent to pay the petitioner's rent at a residence other than the one previously shared by the parties if the respondent is found to have a duty to support the petitioner and the petitioner requests alternative housing;
  - (7) Order that the petitioner be given temporary possession of specified personal property, such as automobiles, checkbooks, keys, and other personal effects;
  - (8) Prohibit the respondent from transferring, encumbering, or otherwise disposing of specified property mutually owned or leased by the parties;
  - (9) Order the respondent to participate in a court-approved counseling program designed to help batterers stop violent behavior or to participate in a substance abuse treatment program;
  - (10) Order the respondent to pay a reasonable fee for housing and other services that have been provided or that are being provided to the petitioner by a shelter for victims of domestic violence;
  - (11) Order the respondent to pay court costs;
  - (12) Order the respondent to pay the cost of medical treatment and services that have been provided or that are being provided to the petitioner as a result of injuries sustained to the petitioner by an act of domestic violence committed by the respondent.
4. A verified petition seeking orders for maintenance, support, custody, visitation, payment of rent, payment of monetary compensation, possession of personal property, prohibiting the transfer, encumbrance, or disposal of property, or payment for services of a shelter for victims of domestic violence, shall contain allegations relating to those orders and shall pray for the orders desired.
  5. In making an award of custody, the court shall consider all relevant factors including the presumption that the best interests of the child will be served by placing the child in the custody and care of the nonabusive parent, unless there is evidence that both parents have engaged in abusive behavior, in which case the court shall not consider this presumption but may appoint a guardian ad litem or a court-appointed special advocate to represent the children in accordance with chapter 452, RSMo, and shall consider all other factors in accordance with chapter 452, RSMo.
  6. The court shall grant to the noncustodial parent rights to visitation with any minor child born to or adopted by the parties, unless the court finds, after hearing, that visitation would endanger the child's physical health, impair the child's emotional development or would otherwise conflict with the best interests of the child, or that no visitation can be arranged which would sufficiently protect the custodial parent from further abuse. The court may appoint a guardian ad litem or court-appointed special advocate to represent the minor child in accordance with chapter 452, RSMo, whenever the custodial parent alleges that visitation with the noncustodial parent will damage the minor child.
  7. The court shall make an order requiring the noncustodial party to pay an amount reasonable and necessary for the support of any child to whom the party owes a duty of support when no prior order of support is outstanding and after all relevant factors have been considered, in accordance with Missouri supreme court rule 88.01 and chapter 452, RSMo.
  8. The court may grant a maintenance order to a party for a period of time, not to exceed one hundred eighty days. Any maintenance ordered by the court shall be in accordance with chapter 452, RSMo.

**Subsequent modification of orders.**

455.065. 1. Provisions of any order respecting maintenance or support may be modified only as to installments occurring subsequent to the motion for modification and only upon a showing of changed circumstances so substantial and continuing as to make the terms unreasonable.

2. Provisions of any order respecting custody may be modified only if the court finds, upon the basis of facts that have arisen since the prior order or that were unknown to the court at the time of the prior order, that a change has occurred in the circumstances of the child or his custodian and that the modification is necessary to serve the best interests of the child.

3. Provisions of any order respecting visitation may be modified when the modification would serve the best interests of the child.

**Jurisdiction, duration--enforceability of orders.**

455.090. 1. The court shall retain jurisdiction over the full order of protection issued under this chapter for its entire duration. The court may schedule compliance review hearings to monitor the respondent's compliance with the order.

2. The terms of the order of protection issued under this chapter are enforceable by all remedies available at law for the enforcement of a judgment, and the court may punish a respondent who willfully violates the order of protection to the same extent as provided by law for contempt of the court in any other suit or proceeding cognizable by the court.

**Citation of law.**

455.500. Sections 455.500 to 455.538 shall be known and may be cited as the "Child Protection Orders Act".

**Definitions.**

455.501. As used in

of protection or a full order of protection;

(8) "Petitioner", a person authorized to file a verified petition under the provisions of sections 455.503 and 455.505;

(9) "Respondent", the adult household member, emancipated child or person stalking the child against whom a verified petition has been filed;

(10) "Stalking", when an adult purposely and repeatedly engages in an unwanted course of conduct with regard to a child that causes another adult to believe that a child would suffer alarm by the conduct. As used in this subdivision:

(a) "Course of conduct" means a pattern of conduct composed of repeated acts over a period of time, however short, that serves no legitimate purpose. Such conduct may include, but is not limited to, following the other person or unwanted communication or contact;

(b) "Repeated" means two or more incidents evidencing a continuity of purpose; and

(c) "Alarm" means to cause fear of danger of physical harm;

(11) "Victim", a child who is alleged to have been abused by an adult household member.

**Venue--petition, who may file.**

455.503. 1. A petition for an order of protection for a child shall be filed in the county where the child resides, where the alleged incident of abuse occurred, or where the respondent may be served.

2. Such petition may be filed by any of the following:

(1) A parent or guardian of the victim;

(2) A guardian ad litem or court-appointed special advocate appointed for the victim; or

(3) The juvenile officer.

**Court clerks to furnish petitioners with uniform forms and information to litigants having no counsel on procedure, filing forms and pleadings--services of clerks and location of office to file petition to be posted--rules--no fees required--guardian ad litem or CASA to be provided copy of petition.**

455.504. 1. The clerk of the court shall make available to the petitioner the uniform forms adopted by the supreme court pursuant to section 455.073. Except as provided in section 455.510, clerks under the supervision of a circuit clerk shall explain to litigants not represented by counsel the procedures for filing all forms and pleadings necessary for the presentation of their petition filed pursuant to the provisions of sections 455.500 to 455.538 to the court. Notice of the fact that clerks will provide such assistance shall be conspicuously posted in the clerks' offices. The location of the office where a petition can be filed shall be conspicuously posted in the court building. The performance of duties prescribed in this section shall not constitute the practice of law as defined in section 484.010, RSMo. All duties of the clerk prescribed in this section shall be performed without cost to the litigants. The supreme court may promulgate rules as necessary to govern conduct of court clerks under sections 455.500 to 455.538, and shall provide forms for petitions and written instructions on filling out all forms and pleadings necessary for the presentation of the petition to the court.

2. No filing fees, court costs, or bond shall be assessed to the petitioner in an action commenced under sections 455.500 to 455.538.

3. The clerk shall immediately notify the guardian ad litem or court-appointed special advocate of appointment and shall provide such guardian or advocate with a copy of the petition for the order of protection for the child. The clerk shall provide such guardian or advocate with the names, addresses, and telephone numbers of the parties within twenty-four hours of entry of the order appointing the guardian ad litem or court-appointed special advocate.

**Relief may be sought for child abuse or child being stalked--order of protection effective, where.**

455.505. 1. An order of protection for a child who has been subject to abuse by a present or former adult household member or person stalking the child may be sought under sections 455.500 to 455.538 by the filing of a verified petition alleging such abuse by the respondent.

2. A child's right to relief under sections 455.500 to 455.538 shall not be affected by his leaving the residence or household to avoid abuse.

3. Any protection order issued pursuant to sections 455.500 to 455.538 shall be effective throughout the state in all cities and counties.

**Ex parte orders, issued when, effective when--for good cause shown, defined--investigation by division of family services, when--report due when, available to whom.**

455.513. 1. Upon the filing of a verified petition under sections 455.500 to 455.538, for good cause shown in the petition, and upon finding that no prior order regarding custody is pending or has been made, the court may immediately issue an ex parte order of protection. An immediate and present danger of abuse to a child shall constitute good cause for purposes of this section. An ex parte order of protection entered by the court shall be in effect until the time of the hearing.

2. Upon the entry of the ex parte order of protection, the court shall enter its order appointing a guardian ad litem or court-appointed special advocate to represent the child victim.

3. If the allegations in the petition would give rise to jurisdiction under section 211.031, RSMo, the court may direct the division of family services to conduct an investigation and to provide appropriate services. The division shall submit a written investigative report to the court and to the juvenile officer within thirty days of being ordered to do so. The report shall be made available to the parties and the guardian ad litem or court-appointed special advocate.

**Hearings, when, procedure, standard of proof--duration of orders--videotaped testimony permitted--renewal of orders, when--service of respondent, failure to serve not to affect validity of order--notice to law enforcement agencies.**

455.516. 1. Not later than fifteen days after the filing of a petition under sections 455.500 to 455.538, a hearing shall be held unless the court deems, for good cause shown, that a continuance should be granted. At the hearing, which may be an open or a closed hearing at the discretion of the court, whichever is in the best interest of the child, if the petitioner has proved the allegation of abuse of a child by a preponderance of the evidence, the court may issue a full order of protection for at least one hundred eighty days and not more than one year. The court may allow as evidence any in camera videotape made of the testimony of the child pursuant to section 491.699, RSMo. The provisions of section 491.075, RSMo, relating to admissibility of statements of a child under the age of twelve shall apply to any hearing under the provisions of sections 455.500 to 455.538. Upon motion by either party, the guardian ad litem or the court-appointed special advocate, and after a hearing by the court, the full order of protection may be renewed for a period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year from the expiration date of the originally issued full order of protection. If for good cause a hearing cannot be held on the motion to renew the full order of protection prior to the expiration date of the originally issued full order of protection, an ex parte order of protection may be issued until a hearing is held on the motion. Upon motion by either party, the guardian ad litem or the court appointed special advocate, and after a hearing by the court, the second full order of protection may be renewed for an additional period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year from the expiration date of the second full order of protection. If for good cause a hearing cannot be held on the motion to renew the second full order of protection prior to the expiration date of the second order, an ex parte order of protection may be issued until a hearing is held on the motion. For purposes of this subsection, a finding by the court of a subsequent act of abuse is not required for a renewal order of protection.

**Temporary relief available--ex parte orders.**

455.520. 1. Any ex parte order of protection granted under sections 455.500 to 455.538 shall be to protect the victim from abuse and may include:

- (1) Restraining the respondent from abusing, threatening to abuse, molesting or disturbing the peace of the victim;
- (2) Restraining the respondent from entering the family home of the victim except as specifically authorized by the court;
- (3) Restraining the respondent from having any contact with the victim, except as specifically authorized by the court;
- (4) A temporary order of custody of minor children.

2. No ex parte order of protection excluding the respondent from the family home shall be issued unless the court finds that:

- (1) The order is in the best interests of the child or children remaining in the home;
- (2) The verified allegations of abuse present a substantial risk to the child or children unless the respondent is excluded;
- (3) A remaining adult family or household member is able to care adequately for the child or children in the absence of the excluded party; and
- (4) A commitment has been obtained from the local division of family services office to provide appropriate social services to the family or household members during the period of time which an order of protection is in effect.

**Full order of protection--relief available.**

455.523. 1. Any full order of protection granted under sections 455.500 to 455.538 shall be to protect the victim from abuse and may include:

- (1) Temporarily enjoining the respondent from abusing, threatening to abuse, molesting or disturbing the peace of the victim;
- (2) Temporarily enjoining the respondent from entering the family home of the victim, except as specifically authorized by the court;
- (3) Temporarily enjoining the respondent from having any contact with the victim, except as specifically authorized by the court.

2. When the court has, after hearing for any full order of protection, issued an order of protection, it may, in addition:

- (1) Award custody of any minor child born to or adopted by the parties when the court has jurisdiction over such child and no prior order regarding custody is pending or has been made, and the best interests of the child require such order be issued;
- (2) Award visitation;
- (3) Award child support in accordance with supreme court rule 88.01 and chapter 452, RSMo;
- (4) Award maintenance to petitioner when petitioner and respondent are lawfully married in accordance with chapter 452, RSMo;
- (5) Order respondent to make or to continue to make rent or mortgage payments on a residence occupied by the victim if the respondent is found to have a duty to support the victim or other dependent household members;
- (6) Order the respondent to participate in a court-approved counseling program designed to help child abusers stop violent behavior or to treat substance abuse;
- (7) Order the respondent to pay, to the extent that he or she is able, the costs of his or her treatment, together with the treatment costs incurred by the victim;
- (8) Order the respondent to pay a reasonable fee for housing and other services that have been provided or that are being provided to the victim by a shelter for victims of domestic violence.

**Jurisdiction for orders--compliance review hearings permitted--remedies for enforcement of orders.**

455.524. 1. The court shall retain jurisdiction over the full order of protection issued under sections 455.500 to 455.538 for its entire duration. The court may schedule compliance review hearings to monitor the respondent's compliance with the order.

2. The terms of the child order of protection issued under this chapter are enforceable by all remedies available at law for the enforcement of a judgment, and the court may punish a respondent who willfully violates the child order of protection to the same extent as provided by law for contempt of the court in any suit or proceeding cognizable by the court.



## JUVENILE COURT – CHILD ABUSE AND NEGLECT RELATED STATUTES

### Chapter 210

#### Child Protection and Reformation

##### Definitions.

210.110. As used in sections 210.109 to 210.165, and sections 210.180 to 210.183, the following terms mean:

(1) "Abuse", any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by those responsible for the child's care, custody, and control, except that discipline including spanking, administered in a reasonable manner, shall not be construed to be abuse;

(2) "Assessment and treatment services for children under ten years old", an approach to be developed by the children's division which will recognize and treat the specific needs of at-risk and abused or neglected children under the age of ten. The developmental and medical assessment may be a broad physical, developmental, and mental health screening to be completed within thirty days of a child's entry into custody and every six months thereafter as long as the child remains in care. Screenings may be offered at a centralized location and include, at a minimum, the following:

(a) Complete physical to be performed by a pediatrician familiar with the effects of abuse and neglect on young children;

(b) Developmental, behavioral, and emotional screening in addition to early periodic screening, diagnosis, and treatment services, including a core set of standardized and recognized instruments as well as interviews with the child and appropriate caregivers. The screening battery may be performed by a licensed mental health professional familiar with the effects of abuse and neglect on young children, who will then serve as the liaison between all service providers in ensuring that needed services are provided. Such treatment services may include in-home services, out-of-home placement, intensive twenty-four-hour treatment services, family counseling, parenting training and other best practices.

....  
Children whose screenings indicate an area of concern may complete a comprehensive, in-depth health, psychodiagnostic, or developmental assessment within sixty days of entry into custody;

....  
(4) "Child", any person, regardless of physical or mental condition, under eighteen years of age;

(5) "Children's services providers and agencies", any public, quasi-public, or private entity with the appropriate and relevant training and expertise in delivering services to children and their families as determined by the children's division, and capable of providing direct services and other family services for children in the custody of the children's division or any such entities or agencies that are receiving state moneys for such services;

....  
(8) "Family assessment and services", an approach to be developed by the children's division which will provide for a prompt assessment of a child who has been reported to the division as a victim of abuse or neglect by a person responsible for that child's care, custody or control and of that child's family, including risk of abuse and neglect and, if necessary, the provision of community-based services to reduce the risk and support the family;

(9) "Family support team meeting" or "team meeting", a meeting convened by the division or children's services provider in behalf of the family and/or child for the purpose of determining service and treatment needs, determining the need for placement and developing a plan for reunification or other permanency options, determining the appropriate placement of the child, evaluating case progress, and establishing and revising the case plan;

(10) "Investigation", the collection of physical and verbal evidence to determine if a child has been abused or neglected;

....

- (12) "Neglect", failure to provide, by those responsible for the care, custody, and control of the child, the proper or necessary support, education as required by law, nutrition or medical, surgical, or any other care necessary for the child's well-being;
- (13) "Preponderance of the evidence", that degree of evidence that is of greater weight or more convincing than the evidence which is offered in opposition to it or evidence which as a whole shows the fact to be proved to be more probable than not;
- (14) "Probable cause", available facts when viewed in the light of surrounding circumstances which would cause a reasonable person to believe a child was abused or neglected;
- (15) "Report", the communication of an allegation of child abuse or neglect to the division pursuant to section 210.115;
- (16) "Those responsible for the care, custody, and control of the child", those included but not limited to the parents or guardian of a child, other members of the child's household, or those exercising supervision over a child for any part of a twenty-four-hour day. Those responsible for the care, custody and control shall also include any adult who, based on relationship to the parents of the child, members of the child's household or the family, has access to the child.

**Reports of abuse, neglect, and under age eighteen deaths--persons required to report--deaths required to be reported to the division or child fatality review panel, when--report made to another state, when.**

210.115. 1. When any physician, medical examiner, coroner, dentist, chiropractor, optometrist, podiatrist, resident, intern, nurse, hospital or clinic personnel that are engaged in the examination, care, treatment or research of persons, and any other health practitioner, psychologist, mental health professional, social worker, day care center worker or other child-care worker, juvenile officer, probation or parole officer, jail or detention center personnel, teacher, principal or other school official, minister as provided by section 352.400, RSMo, peace officer or law enforcement official, or other person with responsibility for the care of children has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect, that person shall immediately report or cause a report to be made to the division in accordance with the provisions of sections 210.109 to 210.183. As used in this section, the term "abuse" is not limited to abuse inflicted by a person responsible for the child's care, custody and control as specified in section 210.110, but shall also include abuse inflicted by any other person.

**Guardian ad litem, how appointed--when--fee--volunteer advocates may be appointed to assist guardian--training program.**

210.160. 1. In every case involving an abused or neglected child which results in a judicial proceeding, the judge shall appoint a guardian ad litem to appear for and represent:

- (1) A child who is the subject of proceedings pursuant to sections 210.110 to 210.165, sections 210.700 to 210.760, sections 211.442 to 211.487, RSMo, or sections 453.005 to 453.170, RSMo, or proceedings to determine custody or visitation rights under sections 452.375 to 452.410, RSMo; or
- (2) A parent who is a minor, or who is a mentally ill person or otherwise incompetent, and whose child is the subject of proceedings under sections 210.110 to 210.165, sections 210.700 to 210.760, sections 211.442 to 211.487, RSMo, or sections 453.005 to 453.170, RSMo.

2. The guardian ad litem shall be provided with all reports relevant to the case made to or by any agency or person, shall have access to all records of such agencies or persons relating to the child or such child's family members or placements of the child, and upon appointment by the court to a case, shall be informed of and have the right to attend any and all family support team meetings involving the

child. Employees of the division, officers of the court, and employees of any agency involved shall fully inform the guardian ad litem of all aspects of the case of which they have knowledge or belief.

3. The appointing judge shall require the guardian ad litem to faithfully discharge such guardian ad litem's duties, and upon failure to do so shall discharge such guardian ad litem and appoint another. The appointing judge shall have the authority to examine the general and criminal background of persons appointed as guardians ad litem, including utilization of the family care safety registry and access line pursuant to sections 210.900 to 210.937\*, to ensure the safety and welfare of the children such persons are appointed to represent. The judge in making appointments pursuant to this section shall give preference to persons who served as guardian ad litem for the child in the earlier proceeding, unless there is a reason on the record for not giving such preference.

4. The guardian ad litem may be awarded a reasonable fee for such services to be set by the court. The court, in its discretion, may award such fees as a judgment to be paid by any party to the proceedings or from public funds. However, no fees as a judgment shall be taxed against a party or parties who have not been found to have abused or neglected a child or children. Such an award of guardian fees shall constitute a final judgment in favor of the guardian ad litem. Such final judgment shall be enforceable against the parties in accordance with chapter 513, RSMo.

5. The court may designate volunteer advocates, who may or may not be attorneys licensed to practice law, to assist in the performance of the guardian ad litem duties for the court. Nonattorney volunteer advocates shall not provide legal representation. The court shall have the authority to examine the general and criminal background of persons designated as volunteer advocates, including utilization of the family care safety registry and access line pursuant to sections 210.900 to 210.937\*, to ensure the safety and welfare of the children such persons are designated to represent. The volunteer advocate shall be provided with all reports relevant to the case made to or by any agency or person, shall have access to all records of such agencies or persons relating to the child or such child's family members or placements of the child, and upon designation by the court to a case, shall be informed of and have the right to attend any and all family support team meetings involving the child. Any such designated person shall receive no compensation from public funds. This shall not preclude reimbursement for reasonable expenses.

6. Any person appointed to perform guardian ad litem duties shall have completed a training program in permanency planning and shall advocate for timely court hearings whenever possible to attain permanency for a child as expeditiously as possible to reduce the effects that prolonged foster care may have on a child. A nonattorney volunteer advocate shall have access to a court appointed attorney guardian ad litem should the circumstances of the particular case so require.

#### **Family support team meetings to be held, when--who may attend--form to be used.**

210.762. 1. When a child is taken into custody by a juvenile officer or law enforcement official under subdivision (1) of subsection 1 of section 211.031, RSMo, and initially placed with the division, the division may make a temporary placement and shall arrange for a family support team meeting prior to or within twenty-four hours following the protective custody hearing held under section 211.032, RSMo. After a child is in the division's custody and a temporary placement has been made, the division shall arrange an additional family support team meeting prior to taking any action relating to the placement of such child; except that, when the welfare of a child in the custody of the division requires an immediate or emergency change of placement, the division may make a temporary placement and shall schedule a family support team meeting within seventy-two hours.

2. The parents, the legal counsel for the parents, the foster parents, the legal guardian or custodian of the child, the guardian ad litem for the child, and the volunteer advocate, and any designee of the parent that has written authorization shall be notified and invited to participate in all family support

team meetings. The family support team meeting may include such other persons whose attendance at the meeting may assist the team in making appropriate decisions in the best interests of the child. If the division finds that it is not in the best interest of a child to be placed with relatives, the division shall make specific findings in the division's report detailing the reasons why the best interests of the child necessitate placement of the child with persons other than relatives.

3. The division shall use the form created in subsection 2 of section 210.147 to be signed upon the conclusion of the meeting pursuant to subsection 1 of this section confirming that all involved parties are aware of the team's decision regarding the custody and placement of the child. Any dissenting views must be recorded and attested to on such form.

4. The case manager shall be responsible for including such form with the case records of the child

## **Chapter 211 Juvenile Courts**

### **Purpose of law--how construed.**

211.011. The purpose of this chapter is to facilitate the care, protection and discipline of children who come within the jurisdiction of the juvenile court. This chapter shall be liberally construed, therefore, to the end that each child coming within the jurisdiction of the juvenile court shall receive such care, guidance and control as will conduce to the child's welfare and the best interests of the state, and that when such child is removed from the control of his parents the court shall secure for him care as nearly as possible equivalent to that which should have been given him by them. The child welfare policy of this state is what is in the best interests of the child

### **Child abuse and neglect hearings, when held, procedure--Supreme Court rules to be promulgated--transfer of school records, when.**

211.032. 1. Except as otherwise provided in a circuit participating in a pilot project established by the Missouri supreme court, when a child or person seventeen years of age, alleged to be in need of care and treatment pursuant to subdivision (1) of subsection 1 of section 211.031, is taken into custody, the juvenile or family court shall notify the parties of the right to have a protective custody hearing. Such notification shall be in writing.

2. Upon request from any party, the court shall hold a protective custody hearing. Such hearing shall be held within three days of the request for a hearing, excluding Saturdays, Sundays and legal holidays. For circuits participating in a pilot project established by the Missouri supreme court, the parties shall be notified at the status conference of their right to request a protective custody hearing.

3. No later than February 1, 2005, the Missouri supreme court shall require a mandatory court proceeding to be held within three days, excluding Saturdays, Sundays, and legal holidays, in all cases under subdivision (1) of subsection 1 of section 211.031. The Missouri supreme court shall promulgate rules for the implementation of such mandatory court proceedings and may consider recommendations from any pilot projects established by the Missouri supreme court regarding such proceedings. Nothing in this subsection shall prevent the Missouri supreme court from expanding pilot projects prior to the implementation of this subsection.

4. The court shall hold an adjudication hearing no later than sixty days after the child has been taken into custody. The court shall notify the parties in writing of the specific date, time, and place of such hearing. If at such hearing the court determines that sufficient cause exists for the child to remain in the custody of the state, the court shall conduct a dispositional hearing no later than ninety days after the child has been taken into custody and shall conduct review hearings regarding the reunification efforts made by the division every ninety to one hundred twenty days for the first year the child is in the custody of the division. After the first year, review hearings shall be held as necessary, but in no event less than once every six months for as long as the child is in the custody of the division.

**Nonoffending parent, child returned to custody of, when.**

211.037. 1. For purposes of proceedings and investigations conducted pursuant to this chapter, children shall be promptly returned to the care and custody of a nonoffending parent entitled to physical custody of the child if:

(1) The parents have continuously maintained joint domicile for a period of at least six months prior to the alleged incident or the parents are maintaining separate households; and

(2) A preponderance of the evidence indicates that only one of the parents is the subject of an investigation of abuse or neglect; and

(3) The nonoffending parent does not have a history of criminal behavior, drug or alcohol abuse, child abuse or child neglect, domestic violence, or stalking within the past five years; and

(4) The parents are maintaining joint domicile and the offending parent is removed from the home voluntarily or involuntarily, or the parents live separately and the child is removed from the home of the offending parent; and

(5) A nonoffending parent requests custody of the child and agrees to cooperate with any orders of the court limiting contact or establishing visitation with the offending parent and the nonoffending parent complies with such orders. When the parents maintain joint domicile or comply with court-ordered visitation, there shall be a rebuttable presumption that the nonoffending parent has not committed any violation of section 568.030, 568.032, 568.045, 568.050, or 568.060, RSMo, or has not engaged in any conduct that would constitute child abuse or neglect under chapter 210, RSMo. In order to rebut the presumption there must be a finding of actual harm or endangerment to the child if the child is placed in the custody of the nonoffending parent.

2. Nothing in this section shall prevent the division or the court from exercising its discretion to return a child or children to the custody of any individual.

**Order to include determination of efforts of division of family services--definition of reasonable efforts by division--modification of the permanency plan, when--reasonable efforts not required, when --permanency hearing, when.**

211.183. 1. In juvenile court proceedings regarding the removal of a child from his or her home, the court's order shall include a determination of whether the division of family services has made reasonable efforts to prevent or eliminate the need for removal of the child and, after removal, to make it possible for the child to return home. If the first contact with the family occurred during an emergency in which the child could not safely remain at home even with reasonable in-home services, the division shall be deemed to have made reasonable efforts to prevent or eliminate the need for removal.

2. "Reasonable efforts" means the exercise of reasonable diligence and care by the division to utilize all available services related to meeting the needs of the juvenile and the family. In determining reasonable efforts to be made and in making such reasonable efforts, the child's present and ongoing health and safety shall be the paramount consideration.

3. In support of its determination of whether reasonable efforts have been made, the court shall enter findings, including a brief description of what preventive or reunification efforts were made and why further efforts could or could not have prevented or shortened the separation of the family. The division shall have the burden of demonstrating reasonable efforts.

4. The juvenile court may authorize the removal of the child even if the preventive and reunification efforts of the division have not been reasonable, but further efforts could not permit the child to remain at home.

5. Before a child may be removed from the parent, guardian, or custodian of the child by order of a juvenile court, excluding commitments to the division of youth services, the court shall in its orders:

- (1) State whether removal of the child is necessary to protect the child and the reasons therefore;
  - (2) Describe the services available to the family before removal of the child, including in-home services;
  - (3) Describe the efforts made to provide those services relevant to the needs of the family before the removal of the child;
  - (4) State why efforts made to provide family services described did not prevent removal of the child; and
  - (5) State whether efforts made to prevent removal of the child were reasonable, based upon the needs of the family and child.
6. If continuation of reasonable efforts, as described in this section, is determined by the division to be inconsistent with establishing a permanent placement for the child, the division shall take such steps as are deemed necessary by the division, including seeking modification of any court order to modify the permanency plan for the child.
7. The division shall not be required to make reasonable efforts, as defined in this section, but has the discretion to make reasonable efforts if a court of competent jurisdiction has determined that:
- (1) The parent has subjected the child to a severe act or recurrent acts of physical, emotional or sexual abuse toward the child, including an act of incest; or
  - (2) The parent has:
    - (a) Committed murder of another child of the parent;
    - (b) Committed voluntary manslaughter of another child of the parent;
    - (c) Aided or abetted, attempted, conspired or solicited to commit such a murder or voluntary manslaughter; or
    - (d) Committed a felony assault that resulted in serious bodily injury to the child or to another child of the parent; or
  - (3) The parent's parental rights to a sibling have been involuntarily terminated.

**Relatives of child shall be given foster home placement, when--relative, defined--death or dissolution not to affect grandparents' status--specific findings required, when--age of relative not a factor, when--federal requirements to be followed for placement of Native American children.**

210.565. 1. Whenever a child is placed in a foster home and the court has determined pursuant to subsection 3 of this section that foster home placement with relatives is not contrary to the best interest of the child, the children's division shall give foster home placement to relatives of the child. Notwithstanding any rule of the division to the contrary, grandparents who request consideration shall be given preference and first consideration for foster home placement.

## CONFIDENTIALITY PROVISIONS

### Chapter 455

#### Abuse--Adults and Children--Shelters and Protective Orders

##### Requirements for shelter to qualify for funds.

455.220. 1. To qualify for funds allocated and distributed pursuant to section 455.215 a shelter shall meet all of the following requirements:

- (5) Require persons employed by or volunteering services to the shelter to maintain the confidentiality of any information that would identify individuals served by the shelter and any information or records that are directly related to the advocacy services provided to such individuals;
- (6) Prior to providing any advocacy services, inform individuals served by the shelter of the nature and scope of the confidentiality requirement in subdivision (5) of this subsection.

2. Any person employed by or volunteering services to a shelter for victims of domestic violence shall be incompetent to testify concerning any confidential information described in subdivision (5) of subsection 1 of this section, unless the confidentiality requirement is waived in writing by the individual served by the shelter.

## **Chapter 210**

### **Child Protection and Reformation**

#### **Privileged communication not recognized, exception.**

210.140. Any legally recognized privileged communication, except that between attorney and client or involving communications made to a minister or clergyperson, shall not apply to situations involving known or suspected child abuse or neglect and shall not constitute grounds for failure to report as required or permitted by sections 210.110 to 210.165, to cooperate with the division in any of its activities pursuant to sections 210.110 to 210.165, or to give or accept evidence in any judicial proceeding relating to child abuse or neglect.

#### **Confidentiality of family support team meetings, exceptions--form developed for core commitments made at meetings.**

210.147. 1. Except as otherwise provided by law, all information provided at any family support team meeting held in relation to the removal of a child from the child's home is confidential; except that:

(1) Any parent or party may waive confidentiality for himself or herself to the extent permitted by law; and

(2) Any parent of the child shall have an absolute right to video and/or audio tape such team meetings to the extent permitted by law; and

(3) No parent or party shall be required to sign a confidentiality agreement before testifying or providing information at such team meetings. Any person, other than a parent or party, who does not agree to maintain confidentiality of the information provided at such team meetings may be excluded from all or any portion of such team meetings during which such person is not testifying or providing information.

2. The division shall be responsible for developing a form to be signed at the conclusion of any team meeting held in relation to a child removed from the home and placed in the custody of the state that reflects the core commitments made by the children's division or the convener of the team meeting and the parents of the child or any other party. The content of the form shall be consistent with service agreements or case plans required by statute, but not the specific address of the child; whether the child shall remain in current placement or be moved to a new placement; visitation schedule for the child's family; and any additional core commitments. Any dissenting views shall be recorded and attested to on such form. The parents and any other party shall be provided with a copy of the signed document.

## **Chapter 211**

### **Juvenile Courts**

#### **Juvenile court records and proceedings, abuse and neglect cases, procedure.**

211.319.

3. For juvenile court proceedings described in subsection 1 of this section, pleadings and orders of the juvenile court other than confidential files and those specifically ordered closed by the juvenile court judge shall be open to the general public. For purposes of this section, "confidential file" means all other records and reports considered closed or confidential by law, including but not limited to medical reports, psychological or psychiatric evaluations, investigation reports of the children's division, social

histories, home studies, and police reports and law enforcement records. Only persons who are found by the court to have a legitimate interest shall be allowed access to confidential or closed files. In determining whether a person has a legitimate interest, the court shall consider the nature of the proceedings, the welfare and safety of the public, and the interest of any child involved.

4. For records made available to the public pursuant to this section:

(1) The identity of any child involved except the perpetrator shall not be disclosed and all references in such records to the identity of any child involved except the perpetrator shall be redacted prior to disclosure to the public; and

(2) All information that may identify or lead to the disclosure of the identity of a reporter of child abuse under sections 210.109 to 210.183, RSMo, and section 352.400, RSMo, shall not be disclosed to the public.

5. The provisions of this section shall apply to juvenile court proceedings and records specified in this section in which the initial pleadings are filed on or after July 1, 2005.

## **Chapter 452**

### **Dissolution of Marriage, Divorce, Alimony and Separate Maintenance**

#### **Noncustodial parent's right to receive child's school progress reports--administrative fees to be set by school, when--exclusion of address of custodial parent, when.**

452.376. 1. Unless a noncustodial parent has been denied visitation rights under section 452.400, such noncustodial parent or any parent who has joint custody of a child shall, upon request and payment of an administrative fee sufficient to cover the cost, receive any deficiency slips, report cards or pertinent progress reports regarding that child's progress in school. If a noncustodial parent has been granted restricted or supervised visitation because the court has found that the custodial parent or the child has been the victim of domestic violence or abuse, as defined in sections 455.010 and 455.501, RSMo, by the noncustodial parent, the court may order that the reports and records made available pursuant to this subsection not include the address of the custodial parent or the child.

## **Chapter 337**

### **Psychologists--Professional Counselors--Social Workers**

#### **Privileged communications, when.**

337.636. Persons licensed under the provisions of sections 337.600 to 337.639 may not disclose any information acquired from persons consulting them in their professional capacity, or be compelled to disclose such information except:

(1) With the written consent of the client, or in the case of the client's death or disability, the client's personal representative or other person authorized to sue, or the beneficiary of an insurance policy on the client's life, health or physical condition;

(2) When such information pertains to a criminal act;

(3) When the person is a child under the age of eighteen years and the information acquired by the licensee indicated that the child was the victim of a crime;

(4) When the person waives the privilege by bringing charges against the licensee;

(5) When the licensee is called upon to testify in any court or administrative hearings concerning matters of adoption, adult abuse, child abuse, child neglect, or other matters pertaining to the welfare of clients of the licensee; or

(6) When the licensee is collaborating or consulting with professional colleagues or an administrative superior on behalf of the client.



### **Confidentiality requirements, exceptions.**

337.686. Persons licensed pursuant to the provisions of sections 337.650 to 337.689 may not disclose any information acquired from persons consulting them in their professional capacity, or be compelled to disclose such information except:

- (1) With the written consent of the client, or in the case of the client's death or disability, the client's personal representative or other person authorized to sue, or the beneficiary of an insurance policy on the client's life, health or physical condition;
- (2) When such information pertains to a criminal act;
- (3) When the person is a child under the age of eighteen years and the information acquired by the licensee indicated that the child was the victim of a crime;
- (4) When the person waives the privilege by bringing charges against the licensee;
- (5) When the licensee is called upon to testify in any court or administrative hearings concerning matters of adoption, adult abuse, child abuse, child neglect, or other matters pertaining to the welfare of clients of the licensee; or
- (6) When the licensee is collaborating or consulting with professional colleagues or an administrative superior on behalf of the client.

### **Chapter 37**

#### **Office of Administration**

#### **Files may be disclosed at discretion of child advocate, exceptions--privileged information--penalty for disclosure of confidential material.**

37.725. 1. Any files maintained by the advocate program shall be disclosed only at the discretion of the child advocate; except that the identity of any complainant or recipient shall not be disclosed by the office unless:

- (1) The complainant or recipient, or the complainant's or recipient's legal representative, consents in writing to such disclosure; or
  - (2) Such disclosure is required by court order.
2. Any statement or communication made by the office relevant to a complaint received by, proceedings before, or activities of the office and any complaint or information made or provided in good faith by any person shall be absolutely privileged and such person shall be immune from suit.
3. Any representative of the office conducting or participating in any examination of a complaint who knowingly and willfully discloses to any person other than the office, or those persons authorized by the office to receive it, the name of any witness examined or any information obtained or given during such examination is guilty of a class A misdemeanor. However, the office conducting or participating in any examination of a complaint shall disclose the final result of the examination with the consent of the recipient.
4. The office shall not be required to testify in any court with respect to matters held to be confidential in this section except as the court may deem necessary to enforce the provisions of sections 37.700 to 37.730, or where otherwise required by court order.

## BEST INTEREST OF THE CHILD, VISITATION, AND OTHER STATUES OF NOTE

### Chapter 452

#### Dissolution of Marriage, Divorce, Alimony and Separate Maintenance

##### 452.375. 1. As used in this chapter, unless the context clearly indicates otherwise:

.....  
2. The court shall determine custody in accordance with the best interests of the child. The court shall consider all relevant factors including:

(1) The wishes of the child's parents as to custody and the proposed parenting plan submitted by both parties;

(2) The needs of the child for a frequent, continuing and meaningful relationship with both parents and the ability and willingness of parents to actively perform their functions as mother and father for the needs of the child;

(3) The interaction and interrelationship of the child with parents, siblings, and any other person who may significantly affect the child's best interests;

(4) Which parent is more likely to allow the child frequent, continuing and meaningful contact with the other parent;

(5) The child's adjustment to the child's home, school, and community;

(6) The mental and physical health of all individuals involved, including any history of abuse of any individuals involved. If the court finds that a pattern of domestic violence has occurred, and, if the court also finds that awarding custody to the abusive parent is in the best interest of the child, then the court shall enter written findings of fact and conclusions of law. Custody and visitation rights shall be ordered in a manner that best protects the child and any other child or children for whom the parent has custodial or visitation rights, and the parent or other family or household member who is the victim of domestic violence from any further harm;

(7) The intention of either parent to relocate the principal residence of the child; and

(8) The wishes of a child as to the child's custodian.

##### **Visitation rights, awarded when--history of domestic violence, consideration of--prohibited, when--modification of, when--supervised visitation defined--noncompliance with order, effect of--family access motions, procedure, penalty for violation--attorney fees and costs assessed, when.**

452.400. 1. (1) A parent not granted custody of the child is entitled to reasonable visitation rights unless the court finds, after a hearing, that visitation would endanger the child's physical health or impair his or her emotional development. The court shall enter an order specifically detailing the visitation rights of the parent without physical custody rights to the child and any other children for whom such parent has custodial or visitation rights. In determining the granting of visitation rights, the court shall consider evidence of domestic violence. If the court finds that domestic violence has occurred, the court may find that granting visitation to the abusive party is in the best interests of the child.

.....  
(3) The court shall consider the parent's history of inflicting, or tendency to inflict, physical harm, bodily injury, assault, or the fear of physical harm, bodily injury, or assault on other persons and shall grant visitation in a manner that best protects the child and the parent or other family or household member who is the victim of domestic violence, and any other children for whom the parent has custodial or visitation rights from any further harm.

(4) The court, if requested by a party, shall make specific findings of fact to show that the visitation arrangements made by the court best protect the child or the parent or other family or household member who is the victim of domestic violence, or any other child for whom the parent has custodial or visitation rights from any further harm.

.....

2. (3) When a court restricts a parent's visitation rights or when a court orders supervised visitation because of allegations of abuse or domestic violence, a showing of proof of treatment and rehabilitation shall be made to the court before unsupervised visitation may be ordered. "Supervised visitation", as used in this section, is visitation which takes place in the presence of a responsible adult appointed by the court for the protection of the child.

## **Chapter 565**

### **Offenses Against the Person**

#### **Defenses to parental kidnapping and child abduction.**

565.160. It shall be an absolute defense to the crimes of parental kidnapping and child abduction that:

- (1) The person had custody of the child pursuant to a valid court order granting legal custody or visitation rights which existed at the time of the alleged violation, except that this defense is not available to persons charged with child abduction under subdivision (5) of subsection 1 of section 565.156;
- (2) The person had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond his or her control, and the person notified or made a reasonable attempt to notify the other parent or legal custodian of the child of such circumstances within twenty-four hours after the visitation period had expired and returned the child as soon as possible; or
- (3) The person was fleeing an incident or pattern of domestic violence.

#### **Prior and persistent domestic violence offenders--definitions --sentencing--procedure at trial--evidence of prior convictions, proof, how heard--past history of domestic violence, evidence admissible.**

565.063. 1. As used in this section, the following terms mean:

- (1) "Domestic assault offense":
  - (a) The commission of the crime of domestic assault in the first degree pursuant to section 565.072 or domestic assault in the second degree pursuant to section 565.073; or
  - (b) The commission of the crime of assault in the first degree pursuant to the provisions of section 565.050 or assault in the second degree pursuant to the provisions of section 565.060, if the victim of the assault was a family or household member;
- (2) "Family" or "household member", spouses, former spouses, adults related by blood or marriage, adults who are presently residing together or have resided together in the past and adults who have a child in common regardless of whether they have been married or have resided together at any time;
- (3) "Persistent domestic violence offender", a person who has pleaded guilty to or has been found guilty of two or more domestic assault offenses, where such two or more offenses occurred within ten years of the occurrence of the domestic assault offense for which the person is charged; and
- (4) "Prior domestic violence offender", a person who has pleaded guilty to or has been found guilty of one domestic assault offense, where such prior offense occurred within five years of the occurrence of the domestic assault offense for which the person is charged.

#### **Domestic assault, first degree--penalty.**

565.072. 1. A person commits the crime of domestic assault in the first degree if he or she attempts to kill or knowingly causes or attempts to cause serious physical injury to a family or household member or an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the actor, as defined in section 455.010, RSMo.

2. Domestic assault in the first degree is a class B felony unless in the course thereof the actor inflicts serious physical injury on the victim in which case it is a class A felony.

**Domestic assault, second degree--penalty.**

565.073. 1. A person commits the crime of domestic assault in the second degree if the act involves a family or household member or an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the actor, as defined in section 455.010, RSMo, and he or she:

- (1) Attempts to cause or knowingly causes physical injury to such family or household member by any means, including but not limited to, by use of a deadly weapon or dangerous instrument, or by choking or strangulation; or
- (2) Recklessly causes serious physical injury to such family or household member; or
- (3) Recklessly causes physical injury to such family or household member by means of any deadly weapon.

2. Domestic assault in the second degree is a class C felony.

**Domestic assault, third degree--penalty.**

565.074. 1. A person commits the crime of domestic assault in the third degree if the act involves a family or household member or an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the actor, as defined in section 455.010, RSMo, and:

- (1) The person attempts to cause or recklessly causes physical injury to such family or household member; or
- (2) With criminal negligence the person causes physical injury to such family or household member by means of a deadly weapon or dangerous instrument; or
- (3) The person purposely places such family or household member in apprehension of immediate physical injury by any means; or
- (4) The person recklessly engages in conduct which creates a grave risk of death or serious physical injury to such family or household member; or
- (5) The person knowingly causes physical contact with such family or household member knowing the other person will regard the contact as offensive; or
- (6) The person knowingly attempts to cause or causes the isolation of such family or household member by unreasonably and substantially restricting or limiting such family or household member's access to other persons, telecommunication devices or transportation for the purpose of isolation.

2. Except as provided in subsection 3 of this section, domestic assault in the third degree is a class A misdemeanor.

3. A person who has pleaded guilty to or been found guilty of the crime of domestic assault in the third degree more than two times against any family or household member as defined in section 455.010, RSMo, is guilty of a class D felony for the third or any subsequent commission of the crime of domestic assault. The offenses described in this subsection may be against the same family or household member or against different family or household members.