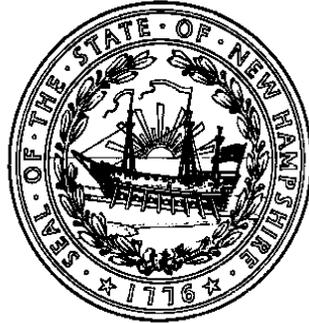


STATE OF NEW HAMPSHIRE



GOVERNOR'S COMMISSION ON DOMESTIC AND SEXUAL VIOLENCE

OFFICE OF THE ATTORNEY GENERAL

NEW HAMPSHIRE DIVISION FOR CHILDREN, YOUTH AND FAMILIES:

DOMESTIC VIOLENCE PROTOCOL

Third Edition, 2009

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Many individuals have contributed to the ongoing development and improvement of the Division for Children, Youth and Families' Domestic Violence Protocol. The multi-disciplinary committee that contributed extensive time and energy into the research and writing of the second edition of the Protocol is identified in Appendix J of this document.

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Respectfully submitted,

Michelle Rosenthal
DCYF Domestic Violence Intervention Coordinator

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INTRODUCTION

The first domestic violence protocols for the New Hampshire Division for Children, Youth and Families (DCYF) were developed in 1996 by the Governor's Commission on Domestic and Sexual Violence, as part of a multi-disciplinary approach to promote effective community intervention in response to domestic violence. In 2004, a second edition was released to reflect DCYF's policy and practice improvements in addressing the needs of families involved in the child protection system who also are experiencing domestic violence. This current edition provides further guidance and updated information regarding best practices in this area.

Research indicates domestic violence is strongly linked to child abuse and neglect, including child deaths (U.S. Advisory Board on Child Abuse and Neglect, 1995). Violence claims the lives of approximately 2,000 children every year in the U.S. It is estimated that 30-60% of homes with adult violence also involve child abuse and neglect (Edleson, 1996). Domestic violence is a factor in as many as 70% of the cases that result in child fatalities.

The protocols are part of a comprehensive approach by the Division to address cases in which domestic violence (DV) is occurring. Other initiatives include policy revisions, training Child Protective Service Workers (CPSWs) and other staff members on domestic violence issues as part of DCYF's core training, providing numerous opportunities for enhanced training on DV, and a partnership with the NH Coalition Against Domestic and Sexual Violence (Coalition) to institute the Domestic Violence Specialist (DVS) Program. The Program, in existence since 1998, seeks to enhance the safety and well-being of victims of domestic violence and their children, to increase the range of services available to victims of both DV and child abuse/neglect and to improve access to those services. The Division also served as a primary partner in the national demonstration project, The Greenbook Project, which sought to improve systems' response to the co-occurrence of domestic violence and child abuse and/or neglect ("co-occurrence").

The complexity of family violence requires cooperative efforts by all those involved, not only to assess reports, but to assist those referred and in need of supportive intervention. Interagency collaboration, communication and coordination by the service providers who come in contact with the family must exist if there is to be an effective response to domestic violence. No one person or agency can effectively address the issue of family violence. Domestic violence and other forms of family violence are broad and serious community problems that require community solutions. Because professionals who work in the child welfare and domestic violence fields share common goals such as family safety, well-being and permanency, it is imperative that CPSWs collaborate with local domestic violence crisis centers.

GREENBOOK COURT GUIDE FOR CO-OCCURRENCE CASES

To help judges address the particularly challenging child protection cases that involve domestic violence, Greenbook Project participants created the Greenbook Court Guide for Co-Occurrence Cases. The guide recognizes the distinction between two types of co-occurrence cases: the relatively few cases in which domestic violence is the basis for bringing the child abuse and/or neglect petition and the many cases in which domestic violence is occurring, but is not the primary contributing factor for the petition. The Court Guide also addresses expectations of DCYF in court proceedings, and therefore, it is important for DCYF staff to be familiar with its contents. Key points from the Court Guide will be integrated throughout these protocols.

SCOPE AND PURPOSE

These protocols serve as a guide to assist CPSWs, as well as community agencies working with children, in their efforts to ensure safety and well-being for children when confronted with domestic violence. DCYF’s primary focus in its intervention in domestic violence cases is the ongoing assessment of safety issues as a result of violence in the home. The most effective method to protect children in domestic violence cases is to hold the perpetrator accountable and partner with the adult victim. All DCYF interventions are based on an acknowledgment that attachment to the victimized parent is critically important in the child(ren)’s capacity to heal, negotiate major developmental milestones and achieve long-term emotional and social stability. Again, DCYF recognizes the goals of safety and well-being can best be achieved if children can safely remain with their victimized parent.

For grammatical simplicity, there are sections of this document in which the adult victims of domestic violence are referred to as “she “or “her.” Likewise, batterers are referred to as “he” or “him.” National statistics indicate women represent 85% of domestic violence victims. It should be noted, however, that there are situations involving same-sex violence and situations in which women abuse men. Also, “perpetrator” is used when referring to the person responsible for child abuse and/or neglect while “batterer” refers to the person who is responsible for domestic violence against an adult. The term “adult victim” is used to distinguish domestic violence victims from victims of child abuse and/or neglect, but it is important to remember that adolescent parents can also be victims and are certainly included in this category.

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| <h2>WORKING PREMISES/ BASIC CONCEPTS FOR INTERVENTION</h2> |
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| <ul style="list-style-type: none">• Priority of the safety and welfare of family members is essential and is the guiding force for case planning and service delivery.• Adult victims need to be active participants in safety planning.• Holding perpetrators accountable for their use of violence is essential to prevent further abuse.• A coordinated community response by all service providers is essential to ensure effective intervention that will protect victims and stop perpetrators’ violence. |
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OVERVIEW OF DOMESTIC VIOLENCE

DEFINITION

Domestic violence, also known as “domestic abuse” and “intimate partner violence,” is the establishment of coercive control and fear in a relationship through the use of violence and/or other forms of abuse. The batterer may use physical abuse, emotional abuse, sexual abuse, economic oppression, isolation, threats, intimidation, and child abuse and/or neglect of children to control his intimate or former intimate partner. Domestic violence may differ in terms of the severity of abuse, but gaining and maintaining control is the primary goal of batterers. Domestic violence occurs in heterosexual, gay and lesbian intimate relationships, all ethnic and racial groups, and among all socio-economic and educational levels.

Tactics used by batterers to establish and maintain power and control over their partners can include making and carrying out threats; pet abuse; destroying property; name-calling; controlling all finances; limiting partner’s outside involvement, including interaction with family and friends; using the children; and shifting responsibility for abusive behavior.

See Appendix B, NH RSA 173-B:1, for the legal definition of domestic violence.

RESEARCH

- Women and children are often victims within the same family. Studies have found that in 30-60% of families where there is an adult victim of violence, battered women’s children also have been abused. (Edleson, 1999)
- The majority of women murdered by their current or former intimate partners are either estranged, separated or in the process of leaving the relationship. (Extent, Nature and Consequences of Intimate Partner Violence: Findings from the National Violence Against Women Survey, 1998)
- A child’s exposure to the father abusing the mother is the strongest risk factor for transmitting violent behavior. (American Psychological Association Presidential Task Force on Violence and The Family, APA, 1996)

CENTRAL INTAKE PROCEDURES

Each month, DCYF's Central Intake Office receives over 1,000 reports alleging child abuse and/or neglect and related concerns about children considered by someone to be at risk. Intake Child Protective Service Workers (CPSWs) must assess the information presented to determine the safety of the children referred, the risk of harm to the children because of the circumstances presented, and the best course of action to address the needs of the children. These decisions can result in a referral to supportive community resources, or a face-to-face assessment to be conducted by DCYF CPSWs located in the family's community. In making these determinations, Intake CPSWs examine, to the greatest extent possible, areas related to family functioning, including the existence of domestic violence.

SCREENING FOR DOMESTIC VIOLENCE

As part of the initial intake regarding alleged child abuse/neglect, Intake CPSWs shall ask callers if they have knowledge of domestic violence occurring within the family. When documenting each referral, Intake CPSWs shall indicate if domestic violence is a factor in the referral.

The Central Intake Office refers reports of domestic violence to the District Office Assessment Supervisor when:

- The child is reported to be residing at the site of the domestic violence and has suffered or is likely to suffer an injury or physical contact as a result.
- A credible referral is received of ongoing domestic violence in a household where infants or children reside as substantiated by law enforcement or others with specific details of frequency and severity.
- The child is reported to be emotionally injured, unable to function at normal developmental age, or unable to perform daily activities (regressive change in daily functions such as eating, sleeping, or toileting) as a result of the domestic violence, and the reporter can describe the specific emotional or physical behaviors exhibited by the child.
- Guns or knives were used in the domestic violence incident, with children present.
- Law enforcement officials request DCYF assistance with a domestic violence situation due to harm or a threat of harm to a child.
- Ordered by superior court or district court, pursuant to RSA 173-B:6 III.

Potential indications ("red flags") of domestic violence may include:

- Coercive, controlling behaviors
- Extreme possessiveness or jealousy

- Obsession with partner or family
- Isolation
- Consistent degradation and devaluing of partner
- Property destruction
- Pet abuse
- Withholding financial or physical resources (e.g. automobile used to obtain necessities such as food or medical care)

See Appendix D for an expanded Risk Assessment Checklist

If there is an indication that domestic violence is occurring, the Intake CPSW shall determine:

- If a parent is being hit, threatened, or coerced
- The whereabouts of child(ren) during incidences
- The child(ren)'s behaviors and responses due to witnessing domestic violence
- If the child(ren) or parent have been injured
- The frequency and severity of incidences
- If weapons were involved
- The presence of weapons in the home
- The presence or use of alcohol and/or other drugs
- The alleged batterer's access to the adult victim and child(ren)
- The steps taken to ensure safety for both child(ren) and the adult victim
- Measures taken to minimize the impact of child(ren)'s exposure to domestic violence

NOTE: If Intake staff determines that the call does not meet the criteria for a child abuse and neglect assessment, no referral is made to the Assessment Supervisor. However, if the caller indicated an awareness of domestic violence in the family, Intake staff must ensure that the caller is aware of available resources as appropriate, including at minimum, the phone number for the statewide domestic violence hotline or the local crisis center. *See Appendix A for a list of crisis centers in the state.*

THE DOMESTIC VIOLENCE SPECIALIST

ROLE OF THE DVS

The Domestic Violence Specialist (DVS) Program is a collaboration between the New Hampshire Department of Health and Human Services and the New Hampshire Coalition Against Domestic and Sexual Violence. The mission of the DVS Program is to provide comprehensive services to victims of domestic violence and their children to maximize their safety and well-being. *See Appendices E and F for the DVS Program's Memorandum of Understanding and Cross-System Responsibilities.*

Domestic Violence Specialists are crisis center advocates who spend at least half their time at the District Offices collaborating with CPSWs to assist in providing and coordinating services for victims of domestic violence whose children are involved in child abuse and neglect assessments/cases. DVSs are a valuable resource for both CPSWs and the families they serve; they provide a crucial link to the free and confidential services of local crisis centers. Clients who are connected with these services will be able to access them whether or not DCYF stays involved in their lives, providing them with ongoing support and seeking to decrease the likelihood of DCYF involvement in the future.

CPSWs shall consult with Domestic Violence Specialists regarding assessments and cases that appear to involve domestic violence, and shall refer victims of domestic violence to the DVS for services.

DVSs may also provide training to DCYF staff to enhance the child protection system's response to domestic violence. Immediate safety concerns in addition to long-term family needs must be carefully considered in every case involving domestic violence.

It is important to understand the role of the DVS is not to monitor or report on clients' progress or compliance with case plans and/or court orders. RSA 173-C protects confidential communications between a DVS and a victim of sexual assault, domestic abuse, stalking or sexual harassment (see Confidentiality below). The value of the DVS to the CPSW (and to DCYF as a whole) is not in sharing client information, but in providing consultation and education regarding domestic violence issues, and in offering support and resources to victims, thereby assisting families in achieving safety and well-being.

As stated in the Greenbook Court Guide, a parent who is a victim of domestic violence may request the presence of a support person, such as a DVS/advocate, in court. The DVS/advocate shall not be required to provide any information to the Court.

CONFIDENTIALITY

Crisis Center Advocates and Confidential Communication: According to NH RSA 173-C, all private communication between an alleged victim of domestic violence and/or sexual violence and a crisis center advocate (“counselor”) shall remain confidential. These communications are privileged and may be disclosed only with the prior written consent of the victim. The presence of a third party discounts private communication, unless the third party is acting as an interpreter (due to language barriers or hearing impairments). *(See Appendix C for RSA 173-C, which provides information on what limitations are applicable in criminal proceedings.)* As with any domestic violence counselor (as defined in RSA 173-C), the DVS has the same reporting duties under RSA 169-C:29 as any other professional, and is required to report if there is reason to suspect that a child has been abused or neglected.

173-C:10 Counselor's Duty to Report Child Abuse. The domestic violence or sexual assault counselor shall have the same reporting duties under RSA 169-C:29 as other professionals, providing that this duty shall not apply where a minor is seeking relief pursuant to RSA 173-B:3 for abuse by a spouse or former spouse of the minor, or by an intimate partner who is not related to the minor by consanguinity or affinity. As used in this section, "abuse" and "intimate partners" shall be as defined in RSA 173-B:1.

Waiving Privilege: When victims choose to waive their privilege, DVSs/crisis center advocates adhere to their employing crisis centers' policies and procedures. Typically, advocates will ensure that clients consent to waive their privilege by providing them with partial waiver forms to sign. Each crisis center has its own partial waiver form, which is reviewed with clients before they sign it. Partial waivers are specific in the area of content and time limits, and establish a record of clients' consent to waive the right to confidential communication.

Victims will clarify what specific information is to be disclosed, the agency or individual to whom it will be disclosed, and the time limits for the partial waiver. Most partial waivers permit written or verbal communication between an advocate and a CPSW on issues that pertain directly to the child(ren).

DVSs/crisis center advocates review the option of partial waivers with clients on an as-needed basis. Advocates inform clients of the option and review the potential benefits and ramifications of this choice. They do not, however, advise clients on whether they should waive their privilege.

INFORMATION SHARING

Consultation between DVSs and CPSWs is an essential tool to respond to the underlying concerns that CPSWs frequently have regarding co-occurrence cases.

Consultation is helpful in eliciting information that is valuable in case planning. No partial waiver is necessary when the DVS is not revealing privileged information during a consultation.

DISTRICT OFFICE SUPERVISORS

District Office Supervisors play a key role in eliminating the risk of harm to children and adult victims of domestic violence. To achieve this, Supervisors ensure that CPSWs are thoroughly prepared to identify and effectively address the impact of domestic violence on the families with whom they are involved. Supervisors must provide access to appropriate training and provide quality supervision to ensure that CPSWs adhere to established best practices. Supervisors are responsible for collaborating with service providers who have expertise in the field of domestic violence.

The District Office Supervisor shall ensure that CPSWs have access to quality domestic violence training.

New CPSWs are required to participate in Core Training. This training provides a solid knowledge base about the various threats encountered by families, including domestic violence. Following Core Training, CPSWs are expected to participate in advanced training on domestic violence. This training is designed to help CPSWs better identify domestic violence indicators in order to take the necessary steps for appropriate intervention.

The District Office Supervisor shall provide quality supervision to ensure that CPSWs adhere to established best practices for domestic violence intervention.

During supervision, Supervisors and CPSWs discuss cases to ensure that families have been appropriately screened for domestic violence. When indicators are present, Supervisors and CPSWs discuss the type(s) of interventions planned, including referrals to and consultation with Domestic Violence Specialists (**See “The Domestic Violence Specialist” section on pages 8-10**). Supervisors ensure that screenings and interventions do not jeopardize the safety of the children or the adult victims of domestic violence.

The District Office Supervisor shall initiate and maintain collaborative efforts with local crisis center professionals, court and law enforcement officials and service providers to make sure children and adult victims of domestic violence receive consistent and comprehensive interventions.

As specified in the DVS Program Cross-System Responsibilities guide, the District Office Supervisor attends quarterly meetings for the purpose of achieving objectives outlined in the Program’s Memorandum of Understanding (MOU). *See Appendix E for the MOU.*

Additionally, the Supervisor maintains consistent communication with DVS Supervisors in order to discuss co-supervision of DVSs. During the course of supervision, the District Office Supervisors ensure that DVSs and CPSWs are complying with the

responsibilities outlined in the DVS Program Cross-System Responsibilities Guide. *See Appendix F for the Cross-System Responsibilities Guide.*

ASSESSMENT PROCEDURES

Abuse or neglect reports concerning children are initially assessed to:

- Ensure the safety of the child(ren) in the family's home
- Determine the validity of the report, by meeting with each child and family member, and making necessary contacts with schools, neighbors, professionals, paraprofessionals, and others
- Determine whether intervention by DCYF or referral to community agencies is necessary

During the comprehensive family assessment, the CPSW shall determine the existence, extent and effects of family violence on the safety of the child(ren) and adult victim of domestic violence.

In addition, the family's immediate and ongoing service needs will be assessed, as well as the appropriateness of ongoing DCYF involvement.

It is important to recognize that domestic violence within the home can have varying effects on children. Determining the extent of the effects is critical when assessing overall safety issues.

Special Consideration:

Families in which domestic violence occurs are often isolated. A CPSW may be the only outsider (helping professional) with access to the family, and as such, is provided a unique opportunity to assess whether domestic violence is present in a home and inform the adult victim of her legal rights and of the availability of community resources and supports.

CASE RECORDS/DOCUMENTATION

As per DCYF policy, CPSWs shall gather and document the following information:

- Factual information about the family, such as names, addresses, dates of birth, gender, occupations of immediate family members and all household members, and the existence of extended family and their ability to act as a resource (RSA 169-C:34, II)
- The family's perceptions of the reported abuse and/or neglect, the CPSW's perceptions, and notations of any discrepancies

- Strengths, needs, and other issues related to family functioning, including but not limited to the presence and/or history of domestic violence

Any information pertaining to confidential addresses for the children and adult victim shall not be included in the case record.

When considering portions of the DCYF case record that are potentially accessible to all family members, including the batterer, it is important to note that release of certain case record information can pose a risk to the adult victim's safety. A batterer can use a variety of information to intimidate, control, or harass the adult victim. Any information regarding disclosures by the victim, including steps being taken to separate from the batterer may put the victim and/or the child(ren) at increased risk.

FAMILY ASSESSMENT OF SAFETY

CPSWs shall screen all families for domestic violence.

The primary concern when meeting with the family is to assure the safety of the children and to help the family resolve any problems or issues that may be causing unsafe conditions for the children.

If allegations or concerns of domestic violence are contained in the referral, one partner expresses fear of the other, and/or force has been used in the relationship, the CPSW shall:

- Routinely make best efforts to obtain background information including the existence of any protective orders (RSA 173-B, 633:3-a, or RSA 458:16), from DCYF, law enforcement and the courts before any interviews are conducted
- Consider the safety of all family members when structuring interviews
- Interview parents/caretakers separately

In order to promote safety for children and adult victims of domestic violence, adult victims should be interviewed first. This allows CPSWs to partner with adult victims to establish safety mechanisms for themselves and their children.

CPSWs shall only ask a suspected adult victim about domestic violence outside the presence of the suspected perpetrator.

Whether or not an alleged perpetrator remains a household member, the CPSW should have separate discussions with each family member about the children's safety. A safety plan shall be included with the Family Assessment of Safety with the following issues addressed:

- Safety concerns
- The alleged perpetrator's role in maintaining safety
- Alternative plans for the children if safety is not maintained

Safety plans commonly identify safe places where the adult victim and children can go in the event of an emergency. The individualized plans also address securing copies of important papers, having access to money and transportation, and other steps to increase family members' physical safety. *See Appendix H for a sample safety plan.*

When documenting safety plans for children and adult victims of domestic violence, the CPSW shall not include any specific details (e.g., the locations of potential safe places where the adult victim and children may go in a crisis situation).

For families in which domestic violence is a factor, CPSWs shall give the adult victim information about the DVS/crisis center, including the telephone number. This must not be done in the presence of the alleged perpetrator as it may compromise the adult victim's safety.

If the original referral indicates there is domestic violence and the children are not in immediate danger of abuse, the adult victim should be interviewed first.

The optimal interview sequence is as follows:

- Adult victim
- Child(ren)
- Other household members
- Alleged perpetrator

While it is preferable to have the parents' consent when interviewing a child, there are situations in which notification or consent is inadvisable. Prior parental notification is not advisable or required when child sexual and/or severe physical abuse has occurred in the home and the alleged perpetrator is a member of the household, a relative, or a friend of the family (RSA 169-C:38, IV). Direct supervisory approval and documentation is required when the CPSW believes there are other legitimate reasons not to notify the family prior to interviewing the child(ren). The CPSW shall document the rationale for not notifying the family prior to the interview and follow DCYF policy on videotaping or audio taping interviews in public places.

INTERVIEWS

CPSWs generally conduct joint interviews with parents/partners. However, when there is any indication of domestic violence, joint meetings involving the adult victim and alleged perpetrator are not advisable, as they may jeopardize the emotional and physical safety of the child(ren) and adult victim. Separate interviews should be conducted with each parent/caretaker. Joint discussions, mediation, or counseling regarding any issues

pertaining to the battering relationship are potentially emotionally and/or physically harmful to the adult victim. It is important that CPSWs constantly be aware that indicators of domestic violence may emerge or become more apparent as an assessment progresses.

If indicators of domestic violence exist, the CPSW shall intervene in such a way as to ensure the emotional and physical safety of the child(ren) and adult victim.

If indicators become apparent as an interview progresses, the CPSW should discreetly conclude the interview and review the circumstances with the CPSW Supervisor and DVS/crisis center. The goal is to ensure that future contacts are made in such a way as to provide opportunities for one-to-one discussions with the adult victim to maintain safety.

The Assessment CPSW must be alert to indicators of domestic violence in the course of a joint interview. The following, if noted in a joint interview, suggest that separate interviews with parents/caretakers are safer for the child(ren) and adult victim of domestic violence:

- One adult who “speaks for” the other partner throughout the interview
- An adult who consistently describes and addresses the partner in derogatory terms
- An adult who is overly solicitous toward a partner
- An adult who is condescending to a partner
- An adult who admits to acts of domestic violence but minimizes the frequency or severity, blames the partner for provoking it, or refuses to accept responsibility.

The inability of a partner to meet alone with the CPSW may also suggest power and control dynamics associated with domestic violence.

INTERVIEWING SUMMARY

- 1. When domestic violence is identified prior to interviews: every effort should be made to conduct separate interviews with parents/caretakers. A CPSW should consult with the Supervisor and DVS/crisis center to discuss how to approach the interviews.**
- 2. When domestic violence indicators become apparent during joint interview: discreetly end interview and consult with CPSW Supervisor/DVS to plan separate interviews.**
- 3. If a CPSW becomes aware of domestic violence indicators as the assessment continues, there should be ongoing efforts to give the adult victim the opportunity to access supportive services.**

Special Consideration:

The Attorney General's Task Force on Child Abuse and Neglect publication, Law Enforcement/DCYF: A Model for Joint Investigations and Assessments provides detailed information about law enforcement's role in interviews when there has been physical abuse against the child(ren). Please refer to the publication for more guidance in this area if, during the course of the interviews, information is obtained regarding physical abuse (or any other act you believe may be against the law) perpetrated against the child(ren). If crimes against parents/caretakers are disclosed, victims should be made aware of available resources and remedies, including the option of making a report to law enforcement. CPSWs should also consult with the district office supervisor and/or the DVS for additional guidance in these situations.

INTERVIEWING THE ADULT VICTIM

If allegations of domestic violence are not contained in the initial referral, the CPSW shall ask the parent general questions regarding the presence of a partner and the nature of their relationship, such as:

- What is your partner like?
- Who makes decisions? How does that happen?
- Do you feel supported in your relationship?
- Disagreements happen in all relationships; what happens when you and your partner disagree?
- Does your partner ever act jealous or possessive? If so, how?
- Do you feel safe in the relationship?
- Has your partner ever used force (e.g., pushed, pulled, slapped, punched, kicked, etc.) against you?

If domestic violence is identified or suspected through the initial referral or subsequent stages of the assessment approval and assignment, the CPSW shall consult with the CPSW Supervisor and the DVS/crisis center prior to the interview whenever possible.

If the adult victim makes a disclosure indicating the presence of domestic violence, proceed to a more detailed interview intended to elicit the following information:

1. The frequency of abuse

How often does each type of abuse occur (i.e., daily, weekly, monthly, yearly)? Is there any pattern to the abuse (e.g., on holidays, on payday, during drinking)?

2. The severity of abuse

What type of abuse? Have injuries been sustained? What medical care was required and what was the outcome? Is the severity linked to any other pattern (for example, is it more severe when no one else is around, or when he is using alcohol or drugs)?

3. Changes in the pattern

Has the abuse become more severe or frequent in the last six months? Has there been an increase in one type of abuse (for example, was name-calling most frequent until recently, when physical abuse began to increase)?

4. Worst incident, first incident, and most recent incident

What incident was the worst? What made it the worst? When did the first incident occur? What is the most recent example of this occurring?

5. Impact on victim, alleged perpetrator, children and others

What was or has been the impact of this abuse on each of the family members? Have they made any changes in behavior as a result of the abuse? Have their social interactions or self-perceptions changed?

6. Level of fear

What was or is the adult victim's level of fear, and why? How has this fear changed her behavior? Has her fear changed over time?

CPSWs should assure the adult victim that DCYF will support her and her child(ren)'s safety. Every effort will be made not to reveal the adult victim's statements and other information to the alleged perpetrator, but it is important to explain the limits of confidentiality in child protection cases.

Special Consideration:

Victims of domestic violence may appear hostile or distrustful when asked to talk about their situations. This may be due to threats made by the batterer such as the adult victim will lose custody of the children, or threats of retaliation (which may include homicide and/or suicide) if she attempts to seek remedies from the abusive behavior. Victims may also minimize or deny abuse as a coping or survival skill; this is often misinterpreted as dishonesty or deception. Minimization or denial may also come from the reluctance of many victims to identify with labels such as "domestic violence victim" or "battered woman," or to label their partners as "abusers" or "batterers." Therefore, it is helpful to avoid such labels as much as possible and instead, seek information regarding specific abusive behaviors and unsafe situations.

A referral to the DVS/crisis center shall be made in accordance with DCYF policies at this initial interview, or any subsequent interviews, if necessary. Additionally, it is critical that information about legal rights, remedies and services, such as local crisis center services, are provided to the adult victim at this time in case she does not connect with the DVS.

The CPSW consults with the Supervisor and DVS/crisis center to review strategies and arrange for the earliest possible connection between the adult victim of domestic violence and the DVS/crisis center. Additionally, the DVS/crisis center may assist in creating individualized, case-specific questions to better elicit the above categories of information.

Adult victims of domestic violence may have already been labeled "bad mothers" by their batterers and/or others as a direct result of their victimization. CPSWs should be careful to avoid stigmatizing adult victims when addressing this issue. A supportive approach is likely to bring about more accurate information.

CPSWs shall capture information about direct harm, exposure and the impact on the child(ren) through these types of questions:

- Are your children having any problems at home or school that concern you?
- If yes, do you think the problems are connected to the abuse that is going on in your life?
- Are your children ever afraid of your partner? When?
- How does your partner react to your children's fears?
- Are there ways in which your partner uses your children against you? Or, has he made threats about the children, such as "I'll take them" or "I'll get custody"? How do you react to such threats?
- Can you describe any abusive incidents that your children have witnessed? How did your children react?
- Have there been any abusive incidents where your children were caught in the middle, such as when you were holding a child or they jumped in the middle? What happened?

The level of impact to children exposed to domestic violence is dependent on the balance between protective factors and harm. Determining what the parents are doing to mitigate the possible damage is as critical as determining the frequency and severity of abuse.

Victims of domestic violence often utilize protective strategies and compensatory parenting in order to minimize the impact of the DV on their children. It is important to listen carefully to identify these strategies, as they probably have not discussed them before and their techniques will be unique to their own situations.

CPSWs shall ask the following types of questions:

- Can you describe some of the ways you try to protect the children from physical or emotional harm? (Probe by offering examples)
- Do you try to keep your partner from doing things in front of the children?
- Have you ever tried to keep the children from doing things that might lead to an incident?
- Have you ever taken the children somewhere else? To a family member's, neighbor's or shelter?
- Have you ever had to instruct the children to leave for their own safety or yours?
- Have you ever considered obtaining a restraining order? Why or why not? Would you?
- What have you done to lessen the negative impact on the children?
- Have you talked to your children about the abuse? What do they say?
- Have you talked to your partner about how the children might be affected? Has it worked? Has it backfired?

INTERVIEWING CHILDREN

Generally, when there have been no collateral allegations of direct abuse or neglect, it is recommended that children be interviewed regarding domestic violence under the following conditions:

- Risk is apparent—children are clearly at risk of physical harm during incidents of domestic violence or abuse.
- There is discrepancy in reports—reports may differ significantly regarding the whereabouts of children during incidents, the impact on the children, or whether the children themselves have been abused or neglected.
- A parent requests it—one partner suggests the children be interviewed to obtain more information about domestic violence. If the other partner reacts negatively or defensively to the suggestion, it may indicate an increased risk of danger to the children.

If the original referral indicates there is domestic violence present, but the children are not in immediate danger of abuse, it is preferable not to interview the children first. Children may relate information to the alleged perpetrator that may compromise the children’s and adult victim’s safety.

Questions should address the following issues:

- What kinds of things do the adults in your household fight about?
- What happens when they fight?
- Does anyone get hit or hurt?
- What do you or your siblings do when there is fighting going on?
- In an emergency, whom would you call? Where would you go?

The CPSW shall work with the adult victim and the children to develop a safety plan specifically designed to address the children’s safety needs.

See Appendix I for information on safety planning for children.

Information gathered from this interview should be shared with the adult victim if the children’s safety will not be compromised. It should also be shared with the DVS/crisis center in ongoing consultations to provide the DVS/crisis center the opportunity to promote further safety planning and support for the adult victim in connection with her children in any follow-up contacts.

INTERVIEWING THE ALLEGED PERPETRATOR

In order to complete a comprehensive family assessment of safety, it is important to obtain information from all family members, including the alleged perpetrator. However, there may be situations when a CPSW obtains information that indicates an interview with the alleged perpetrator is dangerous for either the CPSW or other family members. Third party reports are essential in these instances.

(See the Worker Safety section for more guidance on interviewing the alleged perpetrator.)

If it is determined from the interview with the adult victim and/or child(ren) that the alleged perpetrator can be safely interviewed, the following types of questions may be useful to determine his perception of the issues:

- What is your overall view of the relationship and the family?
- What do you like about your family and partner?
- How does your family handle conflict?
- What happens when you do not get your way?
- Have you ever been so angry that you wanted to physically hurt someone?
- Have you ever forcefully touched anyone in your family? In what way?
- Have you ever threatened to harm or kill your partner, children or yourself?

The alleged perpetrator also should be asked questions pertaining to the safety and well-being of the children (see “Interviewing the Adult Victim” section for some sample questions). Helpful information may be gleaned about his commitment to, and concern for, the children, and an important message will be sent regarding his responsibility for the children.

ASSESSMENT CONSIDERATIONS

During the time that interviews and collateral contacts are being made to complete a comprehensive family assessment, it is imperative the CPSW have a good understanding of the issues and dynamics at hand. Maintaining safety for the children and adult victim is paramount, as is the need to hold the perpetrator accountable for the abuse against the children and adult victim.

Questions to consider:

- Are the children safe?
- Do they feel safe?
- Has the adult victim or the alleged perpetrator acknowledged the level of abuse?
- Do they offer similar or different accounts of the incidents?
- What are the adult victim’s strengths? The children’s? The family’s?
- What strategies does the adult victim use to compensate for the batterer’s abuse?
- Is the adult victim afraid and openly asking for help?
- Does the adult victim fear disclosure of the abuse because she does not want to lose her children?
- Is she concerned the alleged perpetrator will retaliate?
- Is she concerned about being able to care for herself and her child(ren) financially if she leaves?
- Are her present choices related to her past sense of support from family members, friends or community agencies?

It is important the CPSW tell the adult victim that the violence is not her fault and that neither she nor the children deserve to be abused.

If the adult victim of domestic violence is openly asking for help, the CPSW shall immediately begin to assist in the development of a safety plan, along with making a referral to the DVS. The adult victim shall be informed of appropriate community resources, such as domestic and sexual violence crisis centers, law enforcement, legal services, welfare and housing advocacy, and mental health services.

If the adult victim appears uncooperative, it is counter-productive and potentially dangerous to attempt to force the above-mentioned services. CPSWs should reiterate concern for her safety and the safety of the children and continue to educate the adult victim about available options and services.

Special Consideration:

It is possible that outside intervention may increase the risk of harm to the children and adult victim. In these instances, it is critical to inform the adult victim in advance of any plans of action by DCYF, such as interviewing the alleged perpetrator and/ or collateral contacts.

SAFETY CONSIDERATIONS

Adult victims attempt to use safety strategies to prevent, stop or minimize abuse and to maintain their dignity in the face of intimidation and control. It is important to determine what safety strategies have been employed in the past and whether these have been effective. It is equally important to ensure that children in domestic violence situations have safety plans of their own.

The following areas of questioning will assist in establishing a safety plan:

- What works best to keep all family members safe during emergencies?
- Has a family member ever:
 - Called the police? What was the result?
 - Requested a court order? Did it help?
 - Seen a counselor? What happened?
 - Left home as a result of the abuse? What happened to the children?
 - Used a domestic violence shelter? Was it helpful?
 - What other methods have been attempted to keep family members, including the children, safe?
- Where would she go if she had to leave in an emergency? What would happen to the children?
- Is there a current protective (restraining) order? Does it include the children?

- Does she want help in seeking a court order for protection, going to shelter, or any other services for herself and her children?

A good safety plan will include information the adult victim wants to take with her if she needs to leave in a hurry; teaching children what to do during violent incidents; having outside resources aware of and willing to act if they determine something is happening; and having a list of safe places to go if necessary. In addition, the adult victim may consider having a small amount of money available in the event of an emergency and put copies of important papers in a safe place outside the home.

ASSESSMENT OUTCOMES

During the assessment of the family, key issues the CPSW must identify and assess include: the presence of abuse/neglect of the child(ren) and the additional risk factor of domestic violence (including the responsible party), the safety of the child and parent, strengths within the family, and the appropriateness of ongoing DCYF involvement.

For assessments in which the Division does not determine that a child has been abused and/or neglected, the referral is considered unfounded and the case is closed.

If, during the course of the assessment, the CPSW becomes aware of domestic violence within the family, it is critical that information about legal rights and DVS/crisis center services for adult victims, such as crisis lines, shelter, support groups, and other advocacy services be provided to the adult victim. These services should be offered to the client regardless of the current status of the relationship.

The family's case may or may not be opened for ongoing DCYF services, depending on the existence of ongoing safety issues within the family.

| |
|--|
| <p>The Assessment CPSW shall:</p> |
|--|

- | |
|--|
| <ul style="list-style-type: none">-Assess the adult victim's ability to protect the children from harm-Advise the adult victim of legal rights, community resources, and the means of accessing those resources-Work with the adult victim to develop a safety plan that includes the children |
|--|

According to the Greenbook Court Guide for Co-Occurrence Cases, there are two types of co-occurrence petitions that a CPSW may file. If domestic violence is the basis for the petition, DCYF must prove that the child has suffered or is likely to suffer emotional trauma due to exposure to domestic violence by one parent against the other, or has been endangered as a result. If domestic violence is occurring, but is not the primary contributing factor for the petition, no standard of proof is associated with it, but it is an integral consideration in formulating case plans and issuing orders for corrective action.

If domestic violence is the basis for the petition, it must be properly pled; if it's a secondary issue affecting the child, the affidavit should so specify, so the Court may refer to the facts in its orders. Early identification of the domestic violence is critical.

A child abuse/neglect petition that alleges that a family is “involved with domestic violence” (or equally vague language) is legally insufficient, pursuant to RSA 169-C:7, III. According to the Greenbook Court Guide, DCYF will be expected to amend such a petition to specifically identify the nature and extent of the domestic violence and the impact on the children’s health or safety.

Any domestic violence that forms the basis, in whole or in part, for the abuse and/or neglect finding must be specifically identified and attributed to the responsible parent.

If domestic violence is the basis for a finding, the finding should be made only against the perpetrator of the domestic violence. If temporary removal of the children is necessary before they can reside safely with their victimized parent (e.g. if the parent needs to obtain treatment), the CPSW should consult with the Supervisor and DVS regarding the best way to provide this service (e.g. opening a voluntary case with the victimized parent).

When filing a petition under RSA 169-C, the CPSW shall consider the following alternative methods of assuring the child’s safety. The DVS/crisis center shall be consulted on how to present the alternative methods.

- Inquiring whether the adult victim wishes to seek orders pursuant to RSA 173-B (Protection of Persons from Domestic Violence), which, if granted by the court, may result in removal of the perpetrator from the home and, if necessary, other temporary provisions concerning child custody and visitation.
- Requesting an order from the court, pursuant to a petition under RSA 169-C, removing the perpetrator from the home, and limiting or prohibiting that person’s contact with the child(ren).

Consideration of these alternatives to removal of the child(ren) may allow the child(ren) and adult victim to remain together in the home. This protects the child(ren) in the least restrictive manner. It may also provide the adult victim with important protection from domestic violence. When safety planning in these instances, note that a DVS who learns of a perpetrator’s violation of a protective order may not report that to DCYF, unless the DVS believes the violation constitutes child abuse or neglect.

WORKER SAFETY

While the focus of safety planning is primarily on adult victims and their children, CPSWs also should consider their own safety when intervening in child abuse and neglect cases with domestic violence indicators.

As with any assessment, CPSWs shall review the case for any “red flags” of violence.

If safety concerns are present, CPSWs shall consult with the District Office Supervisor and the DVS to develop a plan as to how to approach the case, which may involve having a co-worker participate in an interview or contacting the police for assistance.

CPSWs shall follow DCYF policy when going to a family’s home. This includes the requirement that CPSWs sign out each and every time they leave the office, leaving the name of the person who will be interviewed, the location of the interview, a telephone number, how long the home visit is expected to take, and the estimated time of return to the office.

In the vast majority of cases, CPSWs are not placing themselves in danger when interviewing alleged perpetrators. However, it is always best to err on the side of caution. When interviewing alleged perpetrators at their homes or elsewhere, it is advisable to carry a cell phone and to remain in the front rooms of the house. CPSWs should always be aware of the clearest exit route. A key safety measure is to watch the alleged perpetrator. Has he become agitated? Is he standing up? Gesturing angrily? Making threats? Shaking? If there are grounds for concern about safety and the exits are blocked, it may be best to avoid inflammatory topics and terminate the interview quickly.

Some approaches are:

- “It looks like we have gone as far as we can in this discussion. Let’s continue it at another time.”
- “It looks like we don’t agree about all things. I think it makes sense to think it over and come back to this later.”

It is good case practice to leave or terminate an interview when there are signs of escalation that go beyond a reasonable level of anger or other intense emotions. Otherwise, the CPSW may be exposed to danger or adapt to the threatening climate by becoming overly accommodating or shifting the focus of case practice onto the adult victim.

If a CPSW has felt endangered, the information shall be documented in the case record and the CPSW shall consult with the District Office Supervisor and DVS about what has happened to assess the risk of the perpetrator's retaliating against his children and/or partner as a result of the interview.

CPSWs should trust their instincts in these situations.

CASE PLANNING

The purpose of case planning is to ensure the safety, stability and well-being of children and adult victims of domestic violence while holding perpetrators accountable. In order to strive toward keeping the children in the care of protective parents, whenever possible, DCYF interventions need to be targeted toward removing the risks caused by perpetrators while assisting adult victims in securing safety for themselves and their children.

These interventions need to be targeted toward securing safety for adult victims regardless of whether the children are at home or in an out-of-home placement. DCYF also needs to continue to engage perpetrators and hold them accountable for abusive behaviors in efforts to increase the likelihood of children's safe reunification with adult victims.

A comprehensive history of domestic violence is important for the development of effective case plans, and for maximizing the safety of all family members.

Ongoing assessment of essential family issues such as domestic violence is a key component in case planning and family services. If domestic violence has not already been identified, CPSWs shall screen for domestic violence. Screening as part of the case planning shall consist of the following:

- Review of all documentation
- Continual assessment of the case for domestic violence issues
- Consultation with or referral to DVS/crisis center

Once domestic violence is identified, safety planning shall be an ongoing process for the duration of the case.

The case planning process for those cases in which domestic violence is identified shall involve the CPSW, DVS/crisis center and service providers to ensure the case plans reflect the identified needs of each family member, including the child(ren), perpetrator, and adult victim. The adult victim should not be held accountable for the perpetrator's acts of domestic violence; rather, the perpetrator should be held accountable for such behavior and its impact on the child(ren).

In cases involving domestic violence, each parent shall have an individualized case plan that addresses his or her needs relative to the conditions that led to the finding of child abuse and/or neglect.

According to the Greenbook Court Guide for Co-Occurrence Cases, DCYF's report for a review hearing should thoroughly address the domestic violence and include the following:

- Whether there is a safety plan for the adult victim and if not, why;

- Update of any incidents of domestic violence that have come to light since the last hearing;
- Compliance with domestic violence related and other services, if ordered; and
- Any barriers to progress, including if one parent has interfered with the other parent's efforts to participate in Court ordered services.

Separate meetings should be scheduled for case planning, administrative reviews, and routine team meetings when domestic violence is involved. If separate meetings cannot be scheduled, every attempt to provide a safe environment for the adult victim shall be made. In cases when a protective order is in place, separate meetings shall be scheduled.

BATTERER ACCOUNTABILITY

Components of batterer accountability include:

- Maintaining focus on the scope of the domestic violence as it affects child safety and well-being
- Maintaining communication with essential parties and participants in the case (service providers)
- Ensuring through court orders that children are protected from the perpetrator

CPSWs shall develop case plans for batterers that may include, but are not limited to the following elements:

- **Participation in a batterer intervention program**
- **Require authorization to release confidential information from all agencies/service providers with which the batterer is interfacing**
- **Propose court orders that provide for ongoing sharing of information between and among all agencies/service providers**
- **Supervised visitation**
- **Compliance with protective orders**

BATTERER INTERVENTION PROGRAMS

In February 2002, the Governor's Commission on Domestic and Sexual Violence published Batters Intervention Standards. These Standards reflect emerging research on effective batterer intervention services. Copies of the Standards are available at each DCYF district office.

When domestic violence is a primary concern, the CPSW shall consider including mandatory participation in a batterer intervention program in the case plan.

Batterer Intervention Programs (BIPs) are currently one approach used to hold perpetrators accountable for domestic violence. Batterer intervention is relatively new and therefore there is extensive study being conducted to evaluate and present BIP effectiveness. Batterer intervention can be best described as an educational form of intervention provided in a group format. Participants are usually externally motivated to attend BIPs, primarily through court orders, and may not be recognizing or taking responsibility for their abusive behavior. Programs focus on promoting an internal awareness of battering behavior and its consequences, and increasing the likelihood that participants will modify their behavior and decrease battering dynamics. BIP is not considered counseling or therapy, largely because of the motivation, perception, and responsibility taking exhibited by participants at the onset of group.

BIP Providers who follow established statewide protocols maintain a strong positive relationship with local community service providers, including domestic violence crisis centers. Providers facilitate information sharing among essential partners involved in victim safety, including CPSWs, crisis centers, and officers of the Court (police, probation officers, etc.). They demonstrate strong professional boundaries to maintain victim safety, and therefore do not engage in mediation or communications between the batterer and the victim, or the victim's family members. Providers readily communicate any indication that the batterer is not participating in the group, or is displaying behavior that constitutes a threat to the victim's safety.

Written reports submitted by BIP providers confirm that individuals are consistently attending BIP sessions, but do not speculate that a participant's involvement is resulting in safer behavior outside of the BIP sessions. Batterers' completion of BIPs does not in and by itself result in changes in behavior that can be reported to the court or other agencies. Essential partners involved in the case must rely on the victim's perception of her safety, as well as other external indicators to determine potential for risk by the batterer at the conclusion of the program.

New Hampshire has a coordinated network of Batterer Intervention Providers who access technical assistance and training to ensure best practices. Information about the Batterer Intervention Provider Network, its guiding protocols, and participating members can be accessed through the Attorney General's Office of Victim Witness Assistance.

CPSWs shall ensure BIPs provide written status reports to DCYF and/or the court at a minimum of once a month.

Consistent with Batterer Intervention Standards, CPSWs shall request that court orders require perpetrators to sign releases of information to the essential parties monitoring safety. When perpetrators are ordered to attend BIPs, BIP providers can

release information to DCYF that will allow CPSWs to be aware of the perpetrator's compliance with court orders as well as program requirements.

Special Consideration:

Anger management and personal counseling are not a substitute for batterer intervention programs. Anger management does not address domestic violence as an issue about exerting power and control over another and personal counseling does not provide the challenge perpetrators need to change their behaviors.

If BIP availability is a factor, the CPSW shall meet with DVS/crisis centers and the District Office Supervisor to explore options.

While batterer intervention programs are a key component to holding perpetrators accountable for their actions, such programs are not available in all areas of the state.

VISITATION

In cases involving domestic violence, children's visitation with the batterer must be carefully evaluated to address the safety and well-being of the children and the adult victim. Research has shown it is common to assume that risk decreases post-separation, but the reality often is the opposite (Bancroft & Silverman, 2002; Langford, Isaac & Kabat, 1999). The risk may increase due to the batterer's attempts to maintain control, which may result in retaliatory acts. The physical and psychological harm to both the adult victim and child(ren) needs to be carefully considered throughout the duration of any visitation plan. Visitation is an ongoing process that requires consistent monitoring.

CPSWs shall consult with the District Office Supervisor and DVS/crisis center to develop visitation plans that minimize the risk of physical and psychological harm in cases involving domestic violence.

Various factors impact whether visitation with a batterer should be granted and, if so, the level of supervision necessary to ensure safety. When domestic violence is a primary concern, the following factors should be considered: the potential for verbal abuse, threats, manipulation, abduction and other subtle forms of control of the child(ren) and adult victim. When visitation plans are developed, all unintended consequences should be explored, such as providing the means for the batterer to have contact with the adult victim. Furthermore, emerging research is considering the impact of exposure of children to the controlling, authoritarian parenting style consistently exhibited by domestic violence perpetrators.

Lundy Bancroft and Jay G. Silverman (2002) detail areas in which risks are posed to children by exposure to batterers:

- Exposure to threats or acts of violence toward their mothers
- Undermining mother-child relationships
- Physical or sexual abuse of the child by the batterer
- The batterer as a role model to children
- Rigid, authoritarian parenting
- Neglectful or irresponsible parenting
- Psychological abuse and manipulation
- Abduction

CPSWs shall develop visitation plans based on:

- Information from the adult victim on her concerns relating to the risk to her child(ren) and/or self**
- Information from the child(ren) on their concerns relating to risk**
- Documented history of violence or other forms of abuse by the perpetrator**

According to the Greenbook Court Guide:

- The Court will review related files, paying particular attention to “no contact” provisions that are currently active against any of the parties. Care should be taken to replicate the conditions of “no contact” that are required to ensure the safety of the child. The Court also should pay attention to orders for visitation and contact any other Court to advise of superseding orders.

Increasing visitation and/or decreasing the restrictions placed upon the batterer should only occur after a thorough review that includes:

- Input from the child(ren)
- Input from the adult victim
- Input from other collateral sources

Caution: CPSWs should remember the following are *not* accurate predictors of increased safety for victims:

- A lapse of time between abusive episodes
- A batterer’s ability to behave appropriately in a sterile, highly artificial or monitored environment

The Greenbook Court Guide directs the Court, at each Review Hearing, to engage all parties in a meaningful inquiry to determine whether there is a need for a modification of the dispositional visitation orders.

According to the Greenbook Court Guide, factors to guide the Court's inquiry regarding dispositional visitation orders include:

- Is each parent following the terms of the current visitation order?
- If supervised visitation was ordered, does this need to continue for one or both parents? Do emotional and safety concerns for the child continue to warrant this restriction? Is the child afraid of or intimidated by either parent?
- Has the child been used as a conduit for information, threats or messages?
- Has the visitation structure provided a safe experience, i.e., frequency, location, length of the visit and visitation supervisor, if applicable? Would a change in structure be appropriate?
- Has visitation with siblings occurred? If so, has it been safe? If not, should sibling visitation begin?

Supervised visitation and access services are offered in some areas of the state. CPSWs are encouraged to become familiar with the specific services available in their areas. For additional information on such services, visit the Family Visitation and Access Cooperative's website at www.visitationcoop.org.

It should be noted there are other viable options for supervised visitation when professional supervised visitation services are either unavailable or undesired. Refer to the above guidelines in addition to contacting the Supervised Visitation Subcommittee of the Governor's Commission on Domestic and Sexual Violence for further guidance.

ADDITIONAL CONSIDERATIONS FOR CHILD PROTECTION PROCEEDINGS, FROM THE GREENBOOK COURT GUIDE FOR CO-OCCURRENCE CASES

PRELIMINARY HEARING

- When making efforts to locate an absent parent, remember that safety concerns may arise for the accused parent when the absent parent is an alleged domestic violence perpetrator. DCYF should work with the accused parent to maintain safety if the absent parent is located.
- Relative placement needs to be assessed for: modeling of abusive behavior, manipulation of relationships by the alleged abuser, intimidation of the victim by the alleged abuser's family, and temptation to allow the parent access to the child when prohibited.
- If psychological evaluation is ordered (only when there are specific mental health issues to be addressed), it's important that the evaluator understand domestic violence to avoid misinterpretation of common profiling tests, as well as a host of behaviors associated with domestic violence.
- Domestic violence against a parent may be a factor in determining if circumstances exist to allow an extension of the reunification efforts.

CONSENT DECREE

- Domestic violence must be specifically identified and attributed to the responsible parent.
- The social study should include an assessment of domestic violence.
- The focus of case planning should include the safety of the victimized parent and accountability for the domestic violence perpetrator.

DISPOSITIONAL HEARING

- In co-occurrence cases, special care must be exercised to understand family dynamics in order to protect the victimized parent and child. A social study that ignores, inadequately identifies, or erroneously assesses the violence occurring in a family may be more harmful than helpful. A comprehensive history of domestic violence is necessary for the development of effective case plans.
- Each parent must have an individualized case plan that addresses his or her needs relative to the conditions that led to the finding.
- Case plans should set forth the specific emotional and physical needs of each child and what services should be provided, acknowledging that children experience domestic violence in different ways.
- Whenever possible, DCYF should select providers knowledgeable about domestic violence, so that they can provide competent assessment and intervention.
- The Court may order DCYF to assist families in determining eligibility for public assistance, if there are issues of financial dependence (common as a result of coercive control dynamics).
- The Court may order DCYF to arrange or provide education and safety planning, and/or restorative services that could help a parent to care for the child.

- The Court should conduct a paper review 45 days after the dispositional to ensure appropriate referrals have been made; prior to this, DCYF will submit a brief outline apprising the Court of the status to-date.

REVIEW HEARING

- Reunification with one parent is legally possible and may be appropriate when only one parent corrects the conditions.

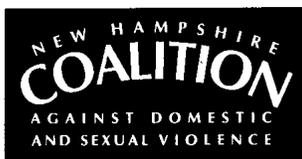
CONTENT OF DCYF'S REPORT

- In a co-occurrence case, the adult victim's safety and both parents' participation should be addressed in DCYF's report. Additionally, the DCYF report may identify the case, for the first time, as a co-occurrence one. If so, the Court will need to carefully review the provided services and may need to modify dispositional orders.
- The Court should ensure that DCYF's report indicates the extent to which each parent has engaged in and benefited from the services outlined in the case plan. In a co-occurrence case, DCYF's report should thoroughly address the domestic violence and include the following:
 - Whether there is a safety plan for the adult victim and if not, why;
 - Update of any incidents of domestic violence that have come to light since the last hearing;
 - Compliance with domestic violence related and other services, if ordered; and
 - Any barriers to progress, including if one parent has interfered with the other parent's efforts to participate in Court ordered services.

PERMANENCY HEARING

- Reports from DCYF and CASA/GAL should note whether either parent has interfered with the other's ability to comply with the dispositional orders and whether either parent represents a safety risk to the other.
- Reunification may still be appropriate with additional time to correct provided (if one parent has not complied due to the other parent's interference).

APPENDIX A: DOMESTIC VIOLENCE, SEXUAL ASSAULT AND STALKING SUPPORT SERVICES IN NH



NH Statewide Sexual Assault Hotline: 1-800-277-5570
NH Statewide Domestic Violence Hotline: 1-866-644-3574

NH Coalition Against Domestic and Sexual Violence
 PO Box 353, Concord, NH 03302-0353 - Phone: 603-224-8893 (Office)
 General Web Site: www.nhcadv.org and Teen Web Site: www.reachoutnh.com

The NH Coalition is comprised of 14 member programs throughout the state that provide services to survivors of sexual assault, domestic violence, stalking and sexual harassment. You do not need to be in crisis to call. Services are free, confidential, and available to everyone regardless of gender, age, health status (including HIV-positive), physical, mental or emotional ability, sexual orientation, gender identity/expression, socio-economic status, race, national origin, immigration status or religious or political affiliation. The services include:

- Support and information, available in person and through a 24-hour hotline
- Accompaniment, support, and advocacy at local hospitals, courts, and police departments
- Assistance with protective/restraining orders and referrals to legal services
- Peer Support Groups
- Access to emergency shelter
- Information and referrals to community programs
- Community and professional outreach and education

RESPONSE to Sexual & Domestic Violence

54 Willow Street
Berlin, NH 03570
 1-866-644-3574 (DV crisis line)
 1-800-277-5570 (SA crisis line)
 603-752-5679 (Berlin office)
 603-237-8746 (Colebrook office)
 603-788-2562 (Lancaster office)

Turning Points Network

11 School Street
Claremont, NH 03743
 1-800-639-3130 (crisis line)
 603-543-0155 (Claremont office)
 603-863-4053 (Newport office)
www.free-to-soar.org

Rape & Domestic Violence Crisis Center (RDVCC)

PO Box 1344
Concord, NH 03302-1344
 1-866-644-3574 (DV crisis line)
 1-800-277-5570 (SA crisis line)
 603-225-7376 (office)
www.rdvcc.org

Starting Point: Services for Victims of Domestic & Sexual Violence

PO Box 1972
Conway, NH 03818
 1-800-336-3795 (crisis line)
 603-356-7993 (Conway office)
 603-539-5506 (Ossipee office)
www.startingpointnh.org

Sexual Harassment & Rape Prevention Program (SHARPP)

UNH/Verrette House
 6 Garrison Avenue
Durham, NH 03824
 1-888-271-SAFE (7233) (crisis line)
 603-862-3494 (office)
www.unh.edu/sharpp

Monadnock Center for Violence Prevention

12 Court Street
Keene, NH 03431-3402
 888-511-6287 (crisis line)
 603-352-3782 (crisis line)
 603-352-3782 (Keene office)
 603-209-4015 (Peterborough office)
 603-209-4015 and 603-532-6288 (Jaffrey Office)
www.mcvprevention.org

New Beginnings Women's Crisis Center

PO Box 622
Laconia, NH 03247
 1-866-644-3574 (DV crisis line)
 1-800-277-5570 (SA crisis line)
 603-528-6511 (office)
www.newbeginningsnh.org

WISE

38 Bank Street
Lebanon, NH 03766
 1-866-348-WISE (toll free crisis line)
 603-448-5525 (local crisis line)
 603-448-5922 (office)

The Support Center at Burch House

PO Box 965
Littleton, NH 03561
 1-800-774-0544 (crisis line)
 603-444-0624 (Littleton office)
www.tccap.org/support_center.htm

YWCA Crisis Service

72 Concord Street
Manchester, NH 03101
 603-668-2299 (crisis line)
 603-625-5785 (Manchester office)
 603-432-2687 (Derry office)

Bridges: Domestic & Sexual Violence Support

PO Box 217
Nashua, NH 03061-0217
 603-883-3044 (crisis line)
 603-889-0858 (Nashua office)
 603-672-9833 (Milford office)
www.bridgesnh.org

Voices Against Violence

PO Box 53
Plymouth, NH 03264
 603-536-1659 (crisis line)
 603-536-5999 (public office)
 603-536-3423 (shelter office)
www.voicesagainstviolence.org

A Safe Place

6 Greenleaf Woods, Suite 101
Portsmouth, NH 03801
 1-800-854-3552 (crisis line)
 603-436-7924 (Portsmouth crisis line)
 603-436-4619 (Portsmouth office)
 603-330-0214 (Rochester crisis line)
 603-890-6392 (Salem crisis line)

Sexual Assault Support Services

7 Junkins Avenue
Portsmouth, NH 03801
 1-888-747-7070 (crisis line)
 603-436-4107 (Portsmouth office)
 603-332-0775 (Rochester office)
www.sassnh.org

APPENDIX B: RSA 173-B PROTECTION OF PERSONS FROM DOMESTIC VIOLENCE

Section 173-B:1

173-B:1 Definitions. – In this chapter:

I. "Abuse" means the commission or attempted commission of one or more of the following acts by a family or household member or current or former sexual or intimate partner and where such conduct constitutes a credible threat to the plaintiff's safety:

- (a) Assault or reckless conduct as defined in RSA 631:1 through RSA 631:3.
- (b) Criminal threatening as defined in RSA 631:4.
- (c) Sexual assault as defined in RSA 632-A:2 through RSA 632-A:5.
- (d) Interference with freedom as defined in RSA 633:1 through RSA 633:3-a.
- (e) Destruction of property as defined in RSA 634:1 and RSA 634:2.
- (f) Unauthorized entry as defined in RSA 635:1 and RSA 635:2.
- (g) Harassment as defined in RSA 644:4.

II. "Applicant" means any private, town, city, or regional agency or organization applying for funds under RSA 173-B:16.

III. "Commissioner" means the commissioner of the department of health and human services.

IV. "Contact" means any action to communicate with another either directly or indirectly, including, but not limited to, using any form of electronic communication, leaving items, or causing another to communicate in such fashion.

V. "Coordinator" means the agency or organization appointed by the commissioner to administer the domestic violence grant program.

VI. "Cross orders for relief" means separate orders granted to parties in a domestic violence situation where each of the parties has filed a petition pursuant to this chapter on allegations arising from the same incident or incidents of domestic violence.

VII. "Deadly weapon" means "deadly weapon" as defined in RSA 625:11, V.

VIII. "Department" means the department of health and human services.

IX. "Domestic violence" means abuse as defined in RSA 173-B:1, I.

X. "Family or household member" means:

(a) Spouses, ex-spouses, persons cohabiting with each other, and persons who cohabited with each other but who no longer share the same residence.

(b) Parents and other persons related by consanguinity or affinity, other than minor children who reside with the defendant.

XI. "Firearm" means any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by force of gunpowder.

XII. "Foreign protective order" means an order enforceable under RSA 173-B:13.

XIII. "Fund" means the special fund for domestic violence programs established by RSA 173-B:15.

XIV. "Grantee" means any private, town, city, or regional agency or organization receiving funds under RSA 173-B:16.

XV. "Intimate partners" means persons currently or formerly involved in a romantic relationship, whether or not such relationship was ever sexually consummated.

XVI. "Mutual order for relief" means an order restraining both parties from abusing the other originating from a petition filed by one of the parties and arising from the same

incident or incidents of domestic violence.

XVII. "Program" means services or facilities provided to domestic violence victims.

Source. 1999, 240:3, eff. Jan. 1, 2000.

Section 173-B:2

173-B:2 Jurisdiction and Venue. –

I. All district courts shall have concurrent jurisdiction with the superior court over all proceedings under this chapter.

II. If the plaintiff has left the household or premises to avoid further abuse, the plaintiff shall have the option to commence proceedings pursuant to RSA 173-B:3 in the county or district where the plaintiff temporarily resides.

III. Proceedings under this chapter may be transferred to another court upon the motion of any party or of the court as the interests of justice or the convenience of the parties may require.

IV. In any county where the family division is located, the family division shall have jurisdiction over domestic violence cases consistent with 1995, 152.

Source. 1999, 240:3, eff. Jan. 1, 2000.

Section 173-B:3

173-B:3 Commencement of Proceedings; Hearing. –

I. Any person may seek relief pursuant to RSA 173-B:5 by filing a petition, in the county or district where the plaintiff or defendant resides, alleging abuse by the defendant. Any person filing a petition containing false allegations of abuse shall be subject to criminal penalties. Notice of the pendency of the action and of the facts alleged against the defendant shall be given to the defendant, either personally or as provided in paragraph III. The plaintiff shall be permitted to supplement or amend the petition only if the defendant is provided an opportunity prior to the hearing to respond to the supplemental or amended petition. All petitions filed under this section shall include the home and work telephone numbers of the defendant, if known. Notice of the whereabouts of the plaintiff shall not be revealed except by order of the court for good cause shown. Any answer by the defendant shall be filed with the court and a copy shall be provided to the plaintiff by the court.

II. (a) The minority of the plaintiff shall not preclude the court from issuing protective orders against a present or former intimate partner, spouse, or ex-spouse under this chapter.

(b) A minor plaintiff need not be accompanied by a parent or guardian to receive relief or services under this chapter.

III. No filing fee or fee for service of process shall be charged for a petition or response under this section, and the plaintiff or defendant may proceed without legal counsel. Either a peace officer or the sheriff's department shall serve process under this section. Any proceeding under this chapter shall not preclude any other available civil or criminal remedy.

IV. The clerks of the district and superior courts shall supply forms for petitions and for relief under this chapter designed to facilitate pro se proceedings. All such petitions shall contain the following words: I swear that the foregoing information is true and correct to the best of my knowledge. I understand that making a false statement on this petition will subject me to criminal penalties.

V. Upon entry of any action in a district court, where the court determines that there is pending in the superior court a cause of action involving the same parties arising out of

the same situation on which the district court action is based, the case shall be transferred to the superior court to be heard as if originally entered in the superior court, unless the district court determines that the interests of justice or expediency require the district court to exercise jurisdiction. Any transfer to the superior court under this paragraph shall be made as soon as practicable following entry of the action.

VI. The findings of facts shall be final, but questions of law may be transferred from the district court to the supreme court in the same manner as from the superior court.

VII. (a) The court shall hold a hearing within 30 days of the filing of a petition under this section or within 10 days of service of process upon the defendant, whichever occurs later.

(b) The time frame established in this paragraph may be extended for an additional 10 days upon motion by either party for good cause shown. A recusal by the judge or any act of God or closing of the court that interferes with the originally scheduled hearing shall not be cause for the dismissal of the petition. The court shall reschedule any hearing under this section in an expeditious manner.

VIII. In any proceeding under this chapter, the court shall not be bound by the technical rules of evidence and may admit evidence which it considers relevant and material.

Source. 1999, 240:3, eff. Jan. 1, 2000. 2007, 284:1, eff. Jan. 1, 2008.

Section 173-B:4

173-B:4 Temporary Relief. –

I. Upon a showing of an immediate and present danger of abuse, the court may enter temporary orders to protect the plaintiff with or without actual notice to defendant. The court may issue such temporary orders by telephone or facsimile. Such telephonically issued orders shall be made by a district or superior court judge to a law enforcement officer, shall be valid in any jurisdiction in the state, and shall be effective until the close of the next regular court business day. Such orders shall be returnable to the district court where the plaintiff resides or to which the plaintiff has fled, unless otherwise ordered by the issuing justice. If non-telephonic temporary orders are made ex parte, the party against whom such relief is issued may file a written request with the clerk of the court and request a hearing on such orders. Such hearing shall be held no less than 3 business days and no more than 5 business days after the request is received by the clerk. Such hearings may constitute the final hearing described in RSA 173-B:3, VII. Such temporary relief may direct the defendant to relinquish to a peace officer any and all firearms and ammunition in the control, ownership, or possession of the defendant, or any other person on behalf of the defendant for the duration of the protective order. Other temporary relief may include:

(a) Protective orders:

(1) Restraining the defendant from abusing the plaintiff.

(2) Restraining the defendant from entering the premises and curtilage where the plaintiff resides, except when the defendant is accompanied by a peace officer and, upon reasonable notice to the plaintiff, is allowed entry by the plaintiff for the sole purpose of retrieving toiletries, medication, clothing, business equipment, and any other items as determined by the court.

(3) Restraining the defendant from withholding items of the plaintiff's personal property which are specified in the order. A peace officer shall accompany the plaintiff in retrieving such property to protect the plaintiff.

(4) Awarding custody of minor children to either party or, upon actual notice, to the department when it is in the best interest of a child.

(5) Denying the defendant visitation, ordering that visitation shall be supervised, or ordering a specific visitation schedule. Visitation shall only be ordered on an ex parte basis where such order can be entered consistent with the following requirements. In determining whether visitation can be safely ordered, the court shall consider the following factors:

(A) The degree to which visitation exposes the plaintiff or the children to physical or psychological harm.

(B) Whether the risk of physical or psychological harm can be removed by ordering supervised visitation.

(C) Whether visitation can be ordered without requiring the plaintiff and defendant to have contact regarding the exchange of children.

(6) Restraining the defendant from contacting the plaintiff or entering the plaintiff's place of employment, school, or any specified place frequented regularly by the plaintiff or by any family or household member.

(7) Restraining the defendant from abusing the plaintiff, plaintiff's relatives, regardless of their place of residence, or plaintiff's household members in any way.

(8) Restraining the defendant from taking, converting, or damaging property in which the plaintiff may have a legal or equitable interest.

(9) Directing the defendant to relinquish to the peace officer, in addition to the relief specified in RSA 173-B:4, I, any and all deadly weapons specified in the protective order that are in the control, ownership, or possession of the defendant, or any other person on behalf of the defendant, for the duration of the protective order.

(b) Other relief, including but not limited to:

(1) Awarding to the plaintiff the exclusive use and possession of an automobile, home, and household furniture, if the defendant has the legal duty to support the plaintiff or the plaintiff's minor children, or the plaintiff has contributed to the household expenses. The court shall consider the type and amount of contribution to be a factor.

(2) Restraining the defendant from taking any action which would lead to the disconnection of any and all utilities and services to the parties' household, or the discontinuance of existing business or service contracts, including, but not limited to, mortgage or rental agreements.

II. The defendant may be prohibited from purchasing, receiving, or possessing any deadly weapons and any and all firearms and ammunition for the duration of the order. The court may subsequently issue a search warrant authorizing the peace officer to seize any deadly weapons specified in the protective order and any and all firearms and ammunition, if there is probable cause to believe such firearms and ammunition and specified deadly weapons are kept on the premises or curtilage of the defendant and if the court has reason to believe that all such firearms and ammunition and specified deadly weapons have not been relinquished by the defendant.

Source. 1999, 240:3, eff. Jan. 1, 2000.

Section 173-B:5

173-B:5 Relief. –

I. A finding of abuse shall mean the defendant represents a credible threat to the safety of the plaintiff. Upon a showing of abuse of the plaintiff by a preponderance of the evidence, the court shall grant such relief as is necessary to bring about a cessation of

abuse. Such relief shall direct the defendant to relinquish to the peace officer any and all firearms and ammunition in the control, ownership, or possession of the defendant, or any other person on behalf of the defendant for the duration of the protective order. Other relief may include:

(a) Protective orders:

(1) Restraining the defendant from abusing the plaintiff.

(2) Restraining the defendant from entering the premises and curtilage where the plaintiff resides, except when the defendant is accompanied by a peace officer and is allowed entry by the plaintiff for the sole purpose of retrieving personal property specified by the court.

(3) Restraining the defendant from contacting the plaintiff or entering the plaintiff's place of employment, school, or any specified place frequented regularly by the plaintiff or by any family or household member.

(4) Restraining the defendant from abusing the plaintiff, plaintiff's relatives, regardless of their place of residence, or plaintiff's household members in any way.

(5) Restraining the defendant from taking, converting, or damaging property in which the plaintiff may have a legal or equitable interest.

(6) Directing the defendant to relinquish to the peace officer, in addition to the relief specified in RSA 173-B:5, I, any and all deadly weapons specified in the protective order that are in the control, ownership, or possession of the defendant, or any other person on behalf of the defendant.

(b) Other relief including, but not limited to:

(1) Granting the plaintiff the exclusive use and possession of the premises and curtilage of the plaintiff's place of residence, unless the defendant exclusively owns or leases and pays for the premises and the defendant has no legal duty to support the plaintiff or minor children on the premises.

(2) Restraining the defendant from withholding items of the plaintiff's personal property specified by the court. A peace officer shall accompany the plaintiff in retrieving such property to protect the plaintiff.

(3) Granting to the plaintiff the exclusive right of use and possession of the household furniture, furnishings, or a specific automobile, unless the defendant exclusively owns such personal property and the defendant has no legal duty to support the plaintiff or minor children.

(4) Ordering the defendant to make automobile, insurance, health care, utilities, rent, or mortgage payments.

(5) Awarding temporary custody of the parties' minor children to either party or, where appropriate, to the department, provided that:

(A) Where custody of the parties' minor children with the department may be appropriate, the department shall receive actual notice of the hearing 10 days prior to such hearing provided that, if necessary, such hearing may be continued 10 days to provide the department adequate notice.

(B) The department may move at any time to rescind its custody of the parties' minor children.

(6) Establishing visitation rights with regard to the parties' minor children. The court shall consider, and may impose on a custody award, conditions necessary to assure the safety of the plaintiff and minor children. This may include orders denying visitation

or requiring supervised visitation, where such order can be entered consistent with the following requirements. In determining whether visitation shall be granted, the court shall consider whether visitation can be exercised by the non-custodial parent without risk to the plaintiff's or children's safety. In making such determination, the court shall consider, in addition to any other relevant factors, the following:

(A) The degree to which visitation exposes the plaintiff or the children to physical or psychological harm.

(B) Whether the risk of physical or psychological harm can be removed by ordering supervised visitation.

(C) Whether visitation can be ordered without requiring the plaintiff and defendant to have contact regarding the exchange of children.

(7) Directing the defendant to pay financial support to the plaintiff or minor children, unless the defendant has no legal duty to support the plaintiff or minor children.

(8) Directing the abuser to engage in a batterer's intervention program or personal counseling. If available, such intervention and counseling program shall focus on alternatives to aggression. The court shall not direct the plaintiff to engage in joint counseling services with the defendant. Court-ordered and court-referred mediation of cases involving domestic violence shall be prohibited.

(9) Ordering the defendant to pay the plaintiff monetary compensation for losses suffered as a direct result of the abuse which may include, but not be limited to, loss of earnings or support, medical and dental expenses, damage to property, out-of-pocket losses for injuries sustained, and moving and shelter expenses.

(10) Ordering the defendant to pay reasonable attorney's fees.

II. The defendant shall be prohibited from purchasing, receiving, or possessing any deadly weapons and any and all firearms and ammunition for the duration of the order. The court may subsequently issue a search warrant authorizing a peace officer to seize any deadly weapons specified in the protective order and any and all firearms and ammunition, if there is probable cause to believe such firearms and ammunition and specified deadly weapons are kept on the premises or curtilage of the defendant.

III. Reconciliation after a previous order, prior to filing the current action, shall not be grounds for denying or terminating a new or existing protective order. Furthermore, the court shall not deny the plaintiff protective orders based solely on a lapse of time between an act of domestic violence and the filing of a petition, provided that the underlying act presents a credible threat to the plaintiff's current safety.

IV. No order made under this section shall supersede or affect any court order pertaining to the possession of a residence; household furniture; custody of children pursuant to RSA 169-B, 169-C, or 169-D; support or custody made under RSA 458; or custody of children of unwed parents as determined by a superior court, probate court, or family division court, or title to real or personal property.

V. (a) Mutual orders for relief shall not be granted. A foreign mutual order for relief shall only be granted full faith and credit in New Hampshire if it meets the requirements set out in RSA 173-B:13, VII.

(b) Cross orders for relief may be granted only if:

(1) The court has made specific findings that each party has committed abuse against the other; and

(2) The court cannot determine who is the primary physical aggressor.

VI. Any order under this section shall be for a fixed period of time not to exceed one year, but may be extended by order of the court upon a motion by the plaintiff, showing good cause, with notice to the defendant, for one year after the expiration of the first order and thereafter each extension may be for up to 5 years, upon the request of the plaintiff and at the discretion of the court. The court shall review the order, and each renewal thereof and shall grant such relief as may be necessary to provide for the safety and well-being of the plaintiff. A defendant shall have the right to a hearing on the extension of any order under this paragraph to be held within 30 days of the extension. The court shall state in writing, at the respondent's request, its reason or reasons for granting the extension. The court shall retain jurisdiction to enforce and collect the financial support obligation which accrued prior to the expiration of the protective order.

VII. Both parties shall be issued written copies of any orders issued by the court, and all orders shall bear the following language: "A willful violation of this order is a crime, as well as contempt of court. Violations of the protective provisions shall result in arrest and may result in imprisonment." Orders shall clearly state how any party can request a further hearing and how the plaintiff may bring a criminal complaint or a petition for contempt if there is a violation of any court order.

VIII. (a) No order issued under this chapter shall be modified other than by the court. Temporary reconciliations shall not revoke an order.

(b) If either party wishes the defendant to be excused from any provisions of an order of protection, the remedy is to petition the court for modification of such order.

(c) A defendant who is restrained from contacting the plaintiff or entering the premises of the plaintiff is prohibited from doing so even if invited by the plaintiff unless the restraining order has been modified by the court.

(d) This paragraph shall give unequivocal direction to peace officers that orders for protection are to be enforced as written and that no action by a party relieves them of the duty to enforce the order.

VIII-a. Upon issuing an order against a defendant, in which a defendant is restrained from having any contact with the plaintiff, the court shall advise the plaintiff that it would be unwise and possibly unsafe for the plaintiff to contact the defendant. If the plaintiff wishes to contact the defendant for any reason, the court shall advise the plaintiff that such contact be made only after petitioning the court for a modification of the order. In an emergency situation, the plaintiff or plaintiff's family may request that the local police department notify the defendant and the local police may accompany the defendant to a designated location, such as a hospital, if appropriate.

IX. (a) A copy of each protective order issued under this chapter shall be transmitted to the administrative office of the courts by facsimile or computer. An emergency protective order issued telephonically shall be transmitted by telephone or facsimile to the department of safety.

(b) The administrative office of the courts shall enter information regarding the protective orders into the state database which shall be made available to police and sheriff departments statewide. The department of safety shall make available information regarding emergency protective orders issued telephonically to police and sheriff departments statewide.

(c) The administrative office of the courts shall update the database upon expiration or termination of a protective order.

(d) Notwithstanding any other provision of law, the administrative office of the courts or the department of safety, its employees and agents, and law enforcement officials shall not be held criminally or civilly liable for action taken under this chapter or RSA 458:16, provided they are acting in good faith and without gross negligence, and within the scope of their duties and authority.

IX-a. If a criminal records check conducted by the department of safety indicates that a potential buyer or transferee is prohibited from receipt or possession of a firearm pursuant to a protective order issued under this chapter, the department of safety shall notify the administrative office of the courts of the denial. The administrative office of the courts shall immediately notify the plaintiff that the defendant has attempted to purchase or obtain a firearm in violation of the protective order.

X. (a) Within 15 days prior to the expiration of the protective orders, the defendant may request, by motion to the court, the return of any and all firearms and ammunition and specified deadly weapons held by the law enforcement agency while the protective order was in effect. Upon receipt of such a motion, the court shall schedule a hearing no later than 15 days after the expiration of the order. The court shall provide written notice to the plaintiff who shall have the right to appear and be heard, and to the law enforcement agency which has control of the firearms, ammunition, and specified deadly weapons. The scope of the hearing shall be limited to:

(1) Establishing whether the defendant is subject to any state or federal law or court order that precludes the defendant from owning or possessing a firearm; and

(2) Under circumstances where the plaintiff has requested an extension of the protective order, whether the plaintiff has established by a preponderance of the evidence that the defendant continues to represent a credible threat to the safety of the plaintiff.

(b) If the court finds that the defendant is not subject to any state or federal law or court order precluding the ownership or possession of firearms, or if the court denies the plaintiff's request to extend the protective order, the court shall issue a written order directing the law enforcement agency to return the requested firearms, ammunition, or deadly weapon to the defendant.

(c) Law enforcement agencies shall not release firearms and ammunition and specified deadly weapons without a court order granting such release. The law enforcement agency may charge the defendant a reasonable fee for the storage of any firearms and ammunition and specified deadly weapons taken pursuant to a protective order. The fee shall not exceed the actual cost incurred by the law enforcement agency for the storage of the firearms and ammunition and specified deadly weapons. The defendant may make alternative arrangements with a federally licensed firearms dealer for the storage of firearms, at the defendant's own expense, upon approval of the court. Such firearms shall be turned over to the appropriate law enforcement agency for transfer to the storage facility. Retrieval of such firearms shall be through the law enforcement agency responsible for their transfer to the storage facility pursuant to a court order as prescribed in this paragraph.

(d) No law enforcement agency shall be held liable for alleged damage or deterioration due to storage or transportation to any firearms and ammunition and specified deadly weapons held by a law enforcement agency, so long as due care is used.

Source. 1999, 240:3. 2000, 230:1. 2001, 189:2, eff. Jan. 1, 2002. 2004, 206:1, eff. Jan. 1, 2005. 2005, 284:1, eff. Aug. 21, 2005. 2006, 214:4, eff. July 31, 2006.

Section 173-B:5-a

173-B:5-a Permissible Contact. –

I. A protective order issued pursuant to RSA 173-B:4 or RSA 173-B:5 shall not be construed to prohibit an attorney, or any person acting on the attorney's behalf, who is representing the defendant in an action brought under this chapter, or in any criminal proceeding concerning the abuse alleged under this chapter, from contacting the plaintiff for a legitimate purpose within the scope of the civil or criminal proceeding; provided, that the attorney or person acting on behalf of the attorney: identifies himself or herself as a representative of the defendant; acknowledges the existence of the protective order and informs the plaintiff that he or she has no obligation to speak; terminates contact with the plaintiff if the plaintiff expresses an unwillingness to talk; and ensures that any personal contact with the plaintiff occurs outside of the defendant's presence, unless the court has modified the protective order to permit such contact.

II. A no-contact provision in a protective order issued pursuant to RSA 173-B:4 or RSA 173-B:5 shall not be construed to:

- (a) Prevent contact between counsel for represented parties; or
- (b) Prevent a party from appearing at a scheduled court or administrative hearing; or
- (c) Prevent a defendant or defendant's counsel from sending the plaintiff copies of any legal pleadings filed in court relating to the domestic violence petition or related civil or criminal matters.

III. A violation of this section may result in a finding of contempt of court.

Source. 2006, 214:1, eff. July 31, 2006.

Section 173-B:6

173-B:6 Guardian Ad Litem. – In all proceedings under this chapter, the court may appoint a guardian ad litem to represent the interests of the children of either or both parties. The guardian ad litem may continue to serve after the final disposition of the case.

Source. 1999, 240:3, eff. Jan. 1, 2000.

Section 173-B:7

173-B:7 Minority not a Preclusion for Services. – The minority of any individual seeking assistance from any domestic violence program, as defined by RSA 173-B:1, shall not preclude provision of such requested services.

Source. 1999, 240:3, eff. Jan. 1, 2000.

Section 173-B:8

173-B:8 Notification. –

I. A copy of any order made under this chapter which prohibits any person from abusing another shall be promptly transmitted to the local law enforcement agency having jurisdiction to enforce such order.

II. Temporary orders shall be promptly served on the defendant by a peace officer. Subsequent orders shall be sent to the defendant's last address of record. The defendant shall be responsible for informing the court of any changes of address. Law enforcement agencies shall establish procedures whereby a peace officer at the scene of an alleged violation of such an order may be informed of the existence and terms of such order.

III. Any court-ordered changes or modifications of the order shall be effective upon issuance of such changes or modifications, and shall be mailed or otherwise provided to the appropriate local law enforcement agency and transmitted to the department of safety within 24 hours of the entry of such changes or modifications.

Source. 1999, 240:3, eff. Jan. 1, 2000.

Section 173-B:9

173-B:9 Violation of Protective Order; Penalty. –

I. (a) When the defendant violates either a temporary or permanent protective order issued or enforced under this chapter, peace officers shall arrest the defendant and ensure that the defendant is detained until arraignment, provided that in extreme circumstances, such as when the health of the defendant would be jeopardized by the temporary detention, a judge in response to a request by the arresting law enforcement officer or agency, may order an alternative to detention pending arraignment. Such arrests may be made within 12 hours without a warrant upon probable cause, whether or not the violation is committed in the presence of a peace officer.

(b) Subsequent to an arrest, the peace officer shall seize any firearms and ammunition in the control, ownership, or possession of the defendant and any deadly weapons which may have been used, or were threatened to be used, during the violation of the protective order. The law enforcement agency shall maintain possession of the firearms, ammunition, or deadly weapons until the court issues an order directing that the firearms, ammunition, or deadly weapons be relinquished and specifying the person to whom the firearms and ammunition or deadly weapons will be relinquished.

II. The prosecution and sentencing for criminal contempt for a violation of a protective order shall not preclude the prosecution of or sentencing for other criminal charges underlying the contempt.

III. A person shall be guilty of a class A misdemeanor if such person knowingly violates a protective order issued under this chapter, or RSA 458:16, III, or any foreign protective order enforceable under the laws of this state. Charges made under this chapter shall not be reduced to a lesser charge, as permitted in other instances under RSA 625:9.

IV. Any person convicted under RSA 173-B:9, III, or who has been convicted in another jurisdiction of violating a protective order enforceable under the laws of this state, who, within 6 years of such conviction or the completion of the sentence imposed for such conviction, whichever is later, subsequently commits and is convicted of one or more offenses involving abuse may be charged with an enhanced penalty for each subsequent offense as follows:

(a) There shall be no enhanced charge under this section if the subsequent offense is a class A felony or an unclassified felony;

(b) If the subsequent offense would otherwise constitute a class B felony, it may be charged as a class A felony;

(c) If the subsequent offense would otherwise constitute a class A misdemeanor, it may be charged as a class B felony;

(d) If the subsequent offense would otherwise constitute a class B misdemeanor, it may be charged as a class A misdemeanor;

(e) If the subsequent offense would otherwise constitute a violation, it may be charged as a class B misdemeanor.

V. A victim of domestic violence shall be entitled to all rights granted to victims of crime under RSA 21-M:8-k.

Source. 1999, 240:3, eff. Jan. 1, 2000. 2002, 79:1, eff. Jan. 1, 2003. 2003, 219:1, eff. Jan. 1, 2004.

Section 173-B:10

173-B:10 Protection by Peace Officers. –

I. Whenever any peace officer has probable cause to believe that a person has been abused, as defined in RSA 173-B:1, that officer shall use all means within reason to prevent further abuse including, but not limited to:

(a) Confiscating any deadly weapons involved in the alleged domestic abuse and any firearms and ammunition in the defendant's control, ownership, or possession.

(b) Transporting or obtaining transportation for the victim and any child, to a designated place to meet with a domestic violence counselor, local family member, or friend.

(c) Assisting the victim in removing toiletries, medication, clothing, business equipment, and any other items determined by the court.

(d) Giving the victim immediate and written notice of the rights of victims and of the remedies and services available to victims of domestic violence. The written notice shall include a statement substantially as follows:

"If you are the victim of domestic violence and you believe that law enforcement protection is needed for your physical safety, you have the right to request that the officer assist in providing for your safety, including asking for an emergency telephonic order for protection. You may also request that the officer assist you in obtaining from your premises and curtilage, toiletries, medication, clothing, business equipment, and any other items as determined by the court, and in locating and taking you to a local safe place including, but not limited to, a designated meeting place to be used as a crisis center, a family member's or friend's residence, or a similar place of safety. If you are in need of medical treatment, you have the right to request that the officer assist you in obtaining an ambulance. You may request a copy of the report filed by the peace officer, at no cost, from the law enforcement department."

II. Pursuant to RSA 594:10, an arrest for abuse may be made without a warrant upon probable cause, whether or not the abuse is committed in the presence of the peace officer. When the peace officer has probable cause to believe that the persons are committing or have committed abuse against each other, the officer need not arrest both persons, but should arrest the person the officer believes to be the primary physical aggressor. In determining who is the primary physical aggressor, an officer shall consider the intent of this chapter to protect the victims of domestic violence, the relative degree of injury or fear inflicted on the persons involved, and any history of domestic abuse between these persons if that history can reasonably be obtained by the officer.

Source. 1999, 240:3, eff. Jan. 1, 2000.

Section 173-B:11

173-B:11 Notice to the Victim. –

I. Notwithstanding the peace officer's obligations in RSA 173-B:9 and RSA 173-B:10, all peace officers shall give victims of abuse immediate and adequate notice of their right to go to the district or superior court of their county to file a petition asking for protective orders against the abusive person and to seek a private criminal complaint.

II. The clerk of the court shall be responsible for advising victims of their right to request that the judge issue an order which may include removing any and all firearms and ammunition in the control, ownership, or possession of the defendant and may include:

(a) Restraining the defendant from abusing the victim.

(b) Directing the defendant to leave and stay away from the victim's premises and curtilage.

(c) Giving the victim custody of any minor children, denying the defendant visitation, or requiring that visitation be supervised to ensure safety for the victim and minor children.

(d) Directing the defendant to support the victim and any minor children if the defendant has the legal responsibility to support either or both.

(e) Restraining the defendant from contacting the victim, or entering the victim's place of employment, school, or any specified place frequented regularly by the victim or by any family or household member.

(f) Restraining the defendant from abusing, in any way, the victim, household members, or victim's relatives, regardless of their place of residence.

(g) Restraining the defendant from taking, converting, or damaging property in which the victim may have a legal or equitable interest.

(h) Directing the defendant to temporarily relinquish to the peace officer specific deadly weapons in the control, ownership, or possession of the defendant which may have been used, or were threatened to be used, in an incident of abuse against the victim or any member of the victim's household.

(i) Ordering the defendant to pay the victim monetary compensation for losses suffered as a direct result of the abuse which may include, but not be limited to, loss of earnings or support, medical and dental expenses, damage to property, out-of-pocket losses for injuries sustained, and moving and shelter expenses.

(j) Ordering the defendant to pay reasonable attorney's fees.

Source. 1999, 240:3, eff. Jan. 1, 2000.

Section 173-B:12

173-B:12 Emergency Care; Limitation and Liability. – Any act or omission of any peace officer rendering emergency care or assistance to a victim of domestic violence including, but not limited to transportation, shall not impose civil liability upon the peace officer or the peace officer's supervisors or employer if the care or assistance is rendered in good faith, unless the act or omission is a result of gross negligence or willful misconduct.

Source. 1999, 240:3, eff. Jan. 1, 2000.

Section 173-B:13

173-B:13 Orders Enforceable. –

I. Any protective order issued under this chapter shall be effective throughout the state.

II. Any protective order issued by any other state, tribal, or territorial court related to domestic or family violence, including an ex parte order, shall be deemed valid if the issuing court had jurisdiction over the parties and matter under the law of the state, tribe, or territory, and the person against whom the order was made was given reasonable notice and opportunity to be heard. There shall be a presumption of validity where an order appears facially valid.

III. Any valid protective order, as defined in paragraph II, shall be accorded full faith and credit throughout the state.

IV. A person entitled to protection under a foreign protective order, as defined in paragraph II, may file such order in any district or superior court by filing with the court a certified copy of the order. Such person shall swear under oath in an affidavit to the best of such person's knowledge that the order is presently in effect as written. Such filing

shall be without fee or cost. The clerk of the district or superior court shall forward such order to the administrative office of the courts which shall enter such order in the state database. Such filing shall not be a precondition to arrest or enforcement of a foreign order.

V. A peace officer may rely upon a copy of any protective order issued under this chapter, or under RSA 458, or upon a copy of a foreign protective order, as defined in this section, which has been provided to the peace officer by any source.

VI. Law enforcement personnel may rely on the statement of the person protected by the order that the order remains in effect as written.

VII. A mutual protective order issued by any other state, tribal, or territorial court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection relating to domestic or family violence shall be accorded full faith and credit only if:

(a) A cross or counter petition, complaint, or other written pleading was filed seeking such protection order; and

(b) The court made specific findings of domestic or family violence by both parties and that each party was entitled to such order.

Source. 1999, 240:3. 2001, 189:3, eff. Jan. 1, 2002.

Section 173-B:14

173-B:14 Orders of Support. –

I. In any action determining the obligation of the obligor to support the obligee or the parties' minor children including, but not limited to, actions for divorce pursuant to RSA 458; determination of parental rights and responsibilities pursuant to RSA 461-A; paternity pursuant to RSA 168-A; child support pursuant to RSA 161-B, RSA 161-C, and RSA 458; reimbursement of public assistance pursuant to RSA 161-C; and the uniform interstate family support act pursuant to RSA 546-B; the court shall take judicial notice of any support obligation established pursuant to this chapter upon the filing of a certified copy of the order by:

(a) Either party to the domestic violence proceeding.

(b) The department.

(c) Any other agency or person legally entitled to enforce the obligation of support for the minor children.

II. Any superior court order for financial support shall include enforcement of any duly filed district court order from the date of filing forward, and shall include enforcement of any arrears which have been:

(a) Reduced to judgment by the district court;

(b) Documented by the department pursuant to an order to make payable through the department; or

(c) Documented by the obligee in a notarized statement, provided that the obligor shall have 30 days to object and request a hearing on the issue of arrears.

Source. 1999, 240:3, eff. Jan. 1, 2000. 2005, 273:13, eff. Oct. 1, 2005.

Section 173-B:15

173-B:15 Fund for Domestic Violence Grant Program. – A special fund for domestic violence programs is established. The sole purpose of the fund shall be to provide revenues for the domestic violence program established in RSA 173-B:16, and shall not be available for any other purpose. The state treasurer shall deposit all fees received by the department under RSA 457:29 in the fund. All moneys deposited in the

fund shall be continually appropriated for the purposes of the domestic violence grant program and shall not lapse.

Source. 1999, 240:3, eff. Jan. 1, 2000.

Section 173-B:16

173-B:16 Grant Program Established. – A grant program is established within the department for the allocation of grant money to New Hampshire programs which provide aid and assistance to victims of domestic violence. The grant program shall be funded by the fund established under RSA 173-B:15.

Source. 1999, 240:3, eff. Jan. 1, 2000.

Section 173-B:17

173-B:17 Duties of the Commissioner. – The commissioner shall:

- I. Administer the grant program established in RSA 173-B:16 through a coordinator. The costs of administration shall be covered by the fund, and shall not exceed 2 percent.
- II. Adopt rules, under RSA 541-A, relative to procedures under which interested New Hampshire programs may apply for funding.
- III. Appoint the coordinator.
- IV. Enter into a contract with the coordinator, subject to the approval of the governor and council.

Source. 1999, 240:3, eff. Jan. 1, 2000.

Section 173-B:18

173-B:18 Selection of Coordinator. – The commissioner shall be satisfied that the organization or agency chosen as the coordinator shall be qualified to provide at least those services listed in RSA 173-B:20.

Source. 1999, 240:3, eff. Jan. 1, 2000.

Section 173-B:19

173-B:19 Compensation for Coordinating Domestic Violence Grant Program. – Compensation for the functions and duties of coordinating the program shall not exceed 30 percent of the total revenues of the fund.

Source. 1999, 240:3, eff. Jan. 1, 2000.

Section 173-B:20

173-B:20 Duties of Coordinator. – The coordinator shall be a statewide organization or agency which has demonstrated its ability, at a minimum, to:

- I. Serve as a clearinghouse for information relating to domestic violence.
- II. Conduct educational programs on domestic violence, both for the general public and for specialized interest groups, such as law enforcement and medical personnel.
- III. Provide technical assistance to local domestic violence programs in the areas of budget, management, and other such skills.
- IV. Enlist the assistance of public and voluntary health, education, welfare, legal, and rehabilitation agencies in a concerted effort to prevent domestic violence.
- V. Provide coordination and supervision of programs.
- VI. Assist the commissioner in the administration of the fund.
- VII. Publicize the availability of the fund and the date by which applications must be received, and act on all applications within 45 days of the application deadline.
- VIII. Notify each appropriate agency or organization in writing whether or not it is eligible for funds, and specify the amount available.
- IX. Publicize the availability of domestic violence programs to the public.
- X. Provide training for court advocates and social services agency advocates to accompany domestic violence victims.

- XI. Apply for and receive any federal funds for which this program may be eligible.
- XII. Ensure, as far as possible, that grants are awarded on a reasonable geographical basis throughout the state.
- XIII. Obtain and evaluate reports from each grantee, at least annually, on its operations under this chapter.

Source. 1999, 240:3, eff. Jan. 1, 2000.

Section 173-B:21

173-B:21 Criteria for Selection of Direct Service Grantees. – The coordinator shall use all of the following criteria for selecting grantees:

I. A grantee's ability to provide direct services to victims of domestic violence as follows:

- (a) Shelter or safe homes on a 24-hours-a-day, 7-days-a-week basis.
 - (b) A 24-hours-a-day, 7-days-a-week switchboard for crisis calls.
 - (c) Temporary housing and food facilities.
 - (d) Psychological support and peer counseling.
 - (e) Referrals to existing services in the community and follow-up on the outcome of the referrals.
 - (f) A drop-in center to assist victims of domestic violence who have not yet made the decision to leave their homes, or who have found other shelter but who have a need for support services.
 - (g) Arrangements for school-aged children to continue their education during their stay at the center.
 - (h) Emergency transportation to a shelter and, when appropriate, arrangements with local law enforcement for assistance in providing such transportation.
 - (i) Trained court advocates and social service agency advocates to accompany domestic violence victims.
- II. A grantee shall be a private or private nonprofit organization, or a public agency.
- III. A grantee shall demonstrate the need for the services proposed by the program.
- IV. A grantee shall establish its ability to secure community support and its efficiency of administration.
- V. A grantee shall receive at least 50 percent of its funding from sources other than the fund, including town, city, county, federal, or private sources. Contributions in kind, whether material, commodities, transportation, office space, or personal services, may be evaluated and counted as part of the required non-state funding.

Source. 1999, 240:3, eff. Jan. 1, 2000.

Section 173-B:22

173-B:22 Confidentiality. – All persons who are employed, appointed, or who volunteer under this chapter shall maintain confidentiality with regard to persons served by the coordinator and grantees and files kept by the coordinator and grantees, except for reasons of safety for other shelter residents or staff.

Source. 1999, 240:3, eff. Jan. 1, 2000.

Section 173-B:23

173-B:23 Referral. – Where centers are available, any law enforcement officer who investigates an alleged incident of domestic violence shall advise the person subject to such violence of the availability of programs from which that person may receive services.

Source. 1999, 240:3, eff. Jan. 1, 2000.

Section 173-B:24

173-B:24 Rights Reserved. – A person shall not be prejudiced by the court having jurisdiction under RSA 173-B for having left the residence or household with or without the children to avoid further domestic violence.

Source. 1999, 240:3, eff. Jan. 1, 2000.

Section 173-B:25

173-B:25 Severability. – If any provision of this chapter or the application of such provision to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are severable.

Source. 1999, 240:3, eff. Jan. 1, 2000.

and files kept by the coordinator and grantees, except for reasons of safety for other shelter residents or staff.

Source. 1999, 240:3, eff. Jan. 1, 2000.

APPENDIX C: RSA 173-C CONFIDENTIAL COMMUNICATIONS BETWEEN VICTIMS AND COUNSELORS

Section 173-C:1

173-C:1 Definitions. – In this chapter:

I. "Confidential communication" means information transmitted between a victim, as defined in paragraph VI, of an alleged sexual assault, alleged domestic abuse, alleged sexual harassment, or alleged stalking, and a sexual assault or domestic violence counselor in the course of that relationship and in confidence by means which, so far as the victim is aware, does not disclose the information to a third person. The presence of an interpreter for the hearing impaired, a foreign language interpreter, or any other interpreter necessary for that communication to take place shall not affect the confidentiality of the communication nor shall it be deemed a waiver of the privilege. The term includes all information received by the sexual assault or domestic violence counselor in the course of that relationship.

II. "Domestic violence center" means any organization or agency which would qualify as a direct service grantee under RSA 173-B:21.

III. "Domestic violence counselor" means any person who is employed or appointed or who volunteers in a domestic violence center who renders support, counseling, or assistance to victims of domestic abuse or attempted domestic abuse, who has satisfactorily completed 30 hours of training in a bona fide program which has been developed by a center as defined in RSA 173-C:1, II.

IV. "Rape crisis center" means any public or private agency, office, or center that primarily offers assistance to victims of sexual assault and their families and provides all the following services:

(a) Crisis intervention to victims of sexual assault 24 hours per day.

(b) Support services to victims of sexual assault by trained volunteers during the hospital examination, police investigation, and court proceedings.

(c) Referral of victims of sexual assault to public and private agencies offering needed services.

(d) The establishment of peer counseling services for the victims of sexual assault.

(e) The development of training programs and the standardization of procedures for law enforcement, hospital, legal and social service personnel to enable them to respond appropriately to the needs of victims.

(f) The coordination of services which are being provided by existing agencies.

(g) Education of the public about the nature and scope of sexual assault and the services which are available.

(h) Development of services to meet the needs of special populations, for example, children, the elderly, and minorities.

(i) Court advocacy through the criminal justice system.

V. "Sexual assault counselor" means any person who is employed or appointed or who volunteers in a rape crisis center who renders support, counseling, or assistance to victims of sexual assault or attempted sexual assault, who has satisfactorily completed 30 hours of training in a bona fide program which has been developed by a rape crisis center as defined in RSA 173-C:1, IV.

VI. "Victim" means any person alleging sexual assault under RSA 632-A, domestic abuse as defined in RSA 173-B:1, stalking under RSA 633:3-a, or sexual harassment as defined under state or federal law, who consults a sexual assault counselor or a domestic violence counselor for the purpose of securing support, counseling or assistance concerning a mental, physical, emotional, legal, housing, medical, or financial problem caused by an alleged act of sexual assault or domestic abuse, stalking, or sexual harassment, or an alleged attempted sexual assault or domestic abuse.

Source. 1985, 98:1. 1990, 241:7. 1998, 345:1, 2. 1999, 240:4, eff. Jan. 1, 2000.

Section 173-C:2

173-C:2 Privilege. –

I. A victim has the privilege to refuse to disclose and to prevent any other person from disclosing a confidential communication made by the victim to a sexual assault counselor or a domestic violence counselor, including any record made in the course of support, counseling, or assistance of the victim. Any confidential communication or record may be disclosed only with the prior written consent of the victim. This privilege terminates upon the death of the victim.

I-a. The privilege and confidentiality under paragraph I shall extend to:

- (a) A third person present to assist communication with the victim.
- (b) A third person present to assist a victim who is physically challenged.
- (c) Co-participants in support group counseling of the victim.

II. Persons prevented from disclosing a confidential communication or record pursuant to paragraph I shall be exempt from the provisions of RSA 631:6.

Source. 1985, 98:1. 1990, 241:8. 1994, 259:10, eff. June 2, 1994.

Section 173-C:3

173-C:3 Assertion or Waiver of Privilege. – The privilege may be claimed or waived in all civil, administrative, and criminal legal proceedings, including discovery proceedings, by the following persons:

I. The victim or an attorney on the victim's behalf.

II. The guardian of the victim, if the victim has been found incompetent by a court of competent jurisdiction.

III. A minor victim who is emancipated, married, or over the age of 15, unless, in the opinion of the court, the minor is incapable of knowingly waiving the privilege. A guardian ad litem shall be appointed in all cases in which there is a potential conflict of interest between a victim under the age of 18 and his parent or guardian.

Source. 1985, 98:1, eff. May 10, 1985.

Section 173-C:4

173-C:4 Partial Waiver. – Waiver as to a specific portion of communication between the victim and the counselor shall not constitute a waiver of the privilege as to other portions of the confidential communication between victim and counselor, relating to the alleged crime.

Source. 1985, 98:1, eff. May 10, 1985.

Section 173-C:5

173-C:5 Limitation on the Privilege; Criminal Proceedings. – In criminal proceedings when a defendant seeks information privileged under this chapter in discovery or at trial, the procedure below shall be followed:

I. A written pretrial motion shall be made by the defendant to the court stating that the defendant seeks discovery of records of a rape crisis center or domestic violence center or

testimony of a sexual assault counselor or domestic violence counselor. The written motion shall be accompanied by an affidavit setting forth specific grounds as to why discovery is requested and showing that there is a substantial likelihood that favorable and admissible information would be obtained through discovery or testimony. No discovery or hearing shall occur pursuant to the information sought to be disclosed for at least 3 business days after the filing of a motion for disclosure.

II. The only information subject to discovery from the records of a rape crisis center or a domestic violence center or which may be elicited during the testimony of a sexual assault or domestic violence counselor are those statements of the victim which relate to the alleged crime being prosecuted in the instant trial.

III. Prior to admission of information at deposition, trial, or other legal proceeding, when a claim of privilege has been asserted and whether or not the information was obtained through discovery, the burden of proof shall be upon the defendant to establish by a preponderance of the evidence that:

(a) The probative value of the information, in the context of the particular case, outweighs its prejudicial effect on the victim's emotional or physical recovery, privacy, or relationship with the counselor or the rape crisis or domestic violence center.

(b) That the information sought is unavailable from any other source.

(c) That there is a substantial probability that the failure to disclose that information will interfere with the defendant's right to confront the witnesses against him and his right to a fair trial.

IV. The trial court shall review each motion for disclosure of information on a case by case basis and determine on the totality of the circumstances that the information sought is or is not subject to the privilege established in RSA 173-C:2. In finding that the privilege shall not apply in a particular case, the trial court shall make written findings as to its reasons therefor.

V. The records and testimony of a rape crisis center or domestic violence center shall be disclosed solely to the trial judge to determine, as a matter of law, whether the information contained in the records or testimony is admissible under this chapter.

VI. That portion of any record and testimony of a rape crisis center or domestic violence center which is not disclosed to the defendant shall be preserved by the court under seal for appeal. For the purpose of preservation, a copy of the record shall be retained with the original released to the center. Costs of duplication shall be borne by the defendant.

VII. If, after disclosure of privileged information, the court upholds the privilege claim, the court shall impose a protective order against revealing any of the information without the consent of the person authorized to permit disclosure.

Source. 1985, 98:1, eff. May 10, 1985.

Section 173-C:6

173-C:6 Locations of Centers Privileged. – Notwithstanding any other provisions of this chapter, the location and the street address of a rape crisis center or domestic violence center are absolutely privileged.

Source. 1985, 98:1, eff. May 10, 1985.

Section 173-C:7

173-C:7 Involuntary Waiver. – The privilege established by this chapter shall not apply when the sexual assault counselor or the domestic violence counselor has knowledge that the victim has given perjured testimony and when the defendant has

made an offer of proof that there is probable cause to believe that perjury has been committed.

Source. 1985, 98:1, eff. May 10, 1985.

Section 173-C:8

173-C:8 Failure to Testify. – Failure of any person to testify as a witness pursuant to the provisions of this chapter shall not give rise to an inference unfavorable to the prosecution or the defense.

Source. 1985, 98:1, eff. May 10, 1985.

Section 173-C:9

173-C:9 Appeal. – The victim shall have a right to interlocutory appeal to the supreme court from any decision by a court to require the disclosure of records or testimony of a rape crisis or domestic violence center or sexual assault or domestic violence counselor.

Source. 1985, 98:1, eff. May 10, 1985.

Section 173-C:10

173-C:10 Counselor's Duty to Report Child Abuse. – The domestic violence or sexual assault counselor shall have the same reporting duties under RSA 169-C:29 as other professionals, providing that this duty shall not apply where a minor is seeking relief pursuant to RSA 173-B:3 for abuse by a spouse or former spouse of the minor, or by an intimate partner who is not related to the minor by consanguinity or affinity. As used in this section, "abuse" and "intimate partners" shall be as defined in RSA 173-B:1.

Source. 1985, 98:1. 1994, 259:11, eff. June 2, 1994

APPENDIX D: RISK ASSESSMENT CHECKLIST

1. _____ Escalation of physical violence
2. _____ Escalation of other forms of abuse
3. _____ Sexual abuse of the victim
4. _____ Recent acquisition or change in use of weapons
5. _____ Depression or recent lifting of mood
6. _____ Suicidal ideation, threats or attempts
7. _____ Homicidal ideation, threats or attempts
8. _____ Change in alcohol or other drug use/abuse
9. _____ Stalking or other surveillance/monitoring behavior
10. _____ Centrality of the victim to the perpetrator (“she’s all I have”)
11. _____ Jealousy/obsessiveness about, or preoccupation with, the victim
12. _____ Mental health concerns connected with violent behavior
13. _____ Other criminal behavior or injunctions (e.g., resisting arrest)
14. _____ Increase in personal risk taking (e.g., violation of restraining orders)
15. _____ Interference with the victim’s help-seeking attempts (e.g., pulling a phone jack out of the wall)
16. _____ Imprisonment of the victim in her home
17. _____ Symbolic violence including destruction of the victim’s property or harming her pets
18. _____ Victim’s attempt to flee the perpetrator or to terminate the relationship
19. _____ Perpetrator’s access to the victim or her family

No one factor alone suggests that severe violence/lethality will happen. Generally speaking, however, the more indicators present, the higher the risk of serious violence. Also, as can be noted by the phrasing of some of the above items, a *change* in factors is more important than the mere *presence* of those factors (e.g., owning a weapon is not as relevant as recently purchasing that weapon). Safety planning with the victim is important in any case with elevated risk. Increased monitoring with the perpetrator may also be indicated.

APPENDIX E: MEMORANDUM OF UNDERSTANDING

The Domestic Violence Specialist Program is a collaboration between the Department of Health and Human Services (DHHS) and the New Hampshire Coalition Against Domestic and Sexual Violence (NHCADSV) and its member programs. Currently each DHHS District Office has an assigned Domestic Violence Specialist (DVS) employed by the local NHCADSV member program. The DVS is co-supervised by the member program and the DHHS District Office.

GOAL:

The purpose of the DVS Program is to address the co-occurrence of domestic violence and child abuse/neglect, to enhance the safety and well being of victims/survivors of domestic abuse and their children, to increase the range of services available to victims/survivors of DV and child abuse/neglect and to improve access to those services.

OBJECTIVES:

To achieve the purpose of this Program, the parties of this collaboration seek to enhance their partnership. The following strategies have been identified as necessary steps to achieve success:

1. Maintain the standardized DCYF referral policies for referring cases to the DVS.
2. Ensure effective implementation of core DVS responsibilities as outlined in the “DVS job responsibilities” document (attached), within both DCYF offices and local member programs.
3. Attend joint agency meetings (known as Quarterly meetings) designed to address the needs of this Program. Use the Quarterly meetings as the forum to have the necessary dialogues concerning this Memorandum and any future revisions.
4. Encourage cross training and exchange between each participating member program and District Office to educate and maintain a mutual understanding of the goals and boundaries within each agency.
5. Review and revise the Domestic Violence Protocols for the Division for Children, Youth and Families as needed.
6. Monitor the implementation of the Protocols through Co-occurrence Case Reviews.
7. Follow the Co-Supervision Procedure to resolve policy and practice conflicts.
8. Act as team members to ensure the resources, support and mutual respect necessary to fulfill individual and shared responsibilities.
9. Conduct periodic review of the Program, as well as the Memorandum of Understanding.

The Department of Health and Human Services, the New Hampshire Coalition Against Domestic and Sexual Violence, and the affiliated District Offices and NHCADSV member programs agree to work together to fulfill the goals of the Domestic Violence Specialist Program, to maintain an equal investment in the success of these goals and objectives, and to ensure accountability to the community through this agreement.

DVS District Office Supervisor

Date

DVS Member Program Supervisor

Date

DVS

Date

Updated 1/08

APPENDIX F: DOMESTIC VIOLENCE SPECIALIST PROGRAM CROSS-SYSTEM RESPONSIBILITIES GUIDE

Mission Statement

The mission of the Domestic Violence Specialist (DVS) Program is to improve interventions in families experiencing a co-occurrence of domestic violence and child abuse/neglect in order to maximize their safety and well-being.

The New Hampshire Coalition Against Domestic and Sexual Violence (NHCADSV) and its 14 member programs, along with the Division for Children, Youth and Families (DCYF), commit to a cross system collaboration, as a means to ensure that best case practice is used within our agencies to support victims of domestic violence and their children.

Domestic Violence Program Responsibilities

Core Services: The following core services are available to any victim of domestic violence within the DCYF system, from every domestic violence member program of NHCADSV. The DVS at each domestic violence program will provide these core services in accordance with the member program's policies.

- 24-hour services:
 - Crisis Line
 - Accompaniment to hospital and police
 - Shelter/Safe Homes, including transportation
- Support Groups
- Information and Referral
- Follow-up Services
- Court/Legal Advocacy
- Community Education/Outreach
- Local Systems Advocacy
- Assistance with transportation

The DVS serves as the designated point of contact and primary link to domestic violence member programs. However, all core services are available to any victim, regardless of the availability of a DVS.

Specialized activities of the DVS:

- Provide consultation to DCYF in identifying partner abuse in families where allegations of child abuse/neglect have been made.
- Provide consultation to DCYF throughout the duration of domestic violence related cases. This may include: review of the CPSW concerns, input into case planning, information on local resources and current trends, and advocating for best practice.
- Provide consultation and training to CPSWs on safety planning, batterers' behavior and accountability, and identification of a predominant aggressor.

- Provide support for victims, specifically related to DCYF hearings, including at court.
- Team with DCYF workers in meeting(s) with victims and/or their children when determined to be safe and consistent with current policies and protocols.
- Attend transfer and Permanency Planning Team meetings, as well as staff and unit meetings, and review court documents for safety issues.
- Attend DCYF Core trainings and become certified trainer for DCYF.
- Advocate for best practice in co-occurrence cases in DFA, BEAS, DJJS, and DCSS.
- Advocate for best practice in co-occurrence cases within the legal, school, court, Probation & Parole, CASA/GAL, and Batterer Intervention systems.
- Serve as internal consultant to domestic violence member program staff on DCYF practices and child abuse and neglect proceedings.

DCYF Responsibilities

Core Services: The following core services are available to any victim of domestic violence within the DCYF system.

- Intervention utilizing best practice in cases of co-occurrence, as outlined in the DCYF Domestic Violence Protocol and the Greenbook Co-Occurrence Court Guide.
- DCYF will collaborate with local domestic violence programs and other community members to maintain a focus on victim safety and batterer accountability.

Utilization of the DVS by DCYF:

- The CPSW and DVS will meet to address the safety needs and concerns of victims in every assessment/case involving domestic violence. There should be a minimum of one meeting, but ongoing meetings generally are necessary and beneficial.
- Utilize the DVS in screening and identifying domestic violence.
- Obtain consultation from the DVS throughout the duration of all DV related cases. This may include: input into case planning, review of CPSW concerns, information on local resources, information on current trends and best practices, etc.
- The DO Supervisors will promote the successful implementation of CPSW job responsibilities. Minimally, promoting the responsibilities shall include a review of dv related cases on a monthly basis to ensure consistent utilization of the DVS services.
- Routinely provide all clients with information about their local DV Program, using methods mutually agreeable to DCYF and the local DV Program.
- Provide bi-weekly supervision to the DVS.
- Establish a work environment in the DCYF office that promotes accessibility to:
 - The CPS staff (recognizing structural limits)
 - CPS communication tools, such as Lotus Notes.

Joint Job Responsibilities of the DV Programs and DO Supervisors

- DVSs and DO and DV Program supervisors will participate consistently in the Quarterly meetings for the purpose of achieving the objectives outlined in the attached MOU.
- DO and DV Program supervisors will communicate routinely to facilitate co-supervision of the DVS.
- DV Program Supervisors and DO Supervisors will seek input from the DVS relative to the collaboration on a bi-weekly basis.

Revised 4/17/08

APPENDIX G: SAMPLE WAIVER OF PRIVILEGE FORM

Inter-Agency Release Form

Confidentiality Policy:

Crisis center staff and volunteers will not release ANY information concerning confidential communications with clients without prior written consent of the client as outlined by NH RSA 173-C. Reported or suspected child or elder abuse as defined by NH state statute is not covered by the agency's confidentiality policy.

Permission for release of information:

I _____ give the following crisis center staff and/or volunteer(s)

permission to discuss the following specific information:

to the individual(s) or agency(ies) representative listed below:

I understand that I am voluntarily giving my consent and that permission for the release of information expires 30 days from the date of signing.

Client Signature: _____ Date: _____

Staff/Volunteer: _____

Adapted from Starting Point: Services for Victims of Domestic & Sexual Violence

APPENDIX H: PERSONALIZED SAFETY PLAN

Suggestions for increasing safety in the relationship

- I will have important phone numbers available
- Police 9-1-1
- Hotline- 1-866-644-3574 (toll free)
- Friends _____

Crisis Center _____

- I can tell _____

and _____ about the violence and ask them to call the police if they hear suspicious noises coming from my home.

- If I leave my home, I can go to (choose a friend or neighbor at whose house you would feel safe, or contact the crisis center to see about shelter)

- I can leave extra money, car keys, clothing, and copies of documents with

- To ensure safety and independence I can: always keep change for phone calls with me; open my own savings account; rehearse my escape route with a support person; and review the safety plan on

_____ (date).

Where Do You Go If You Are Being Abused?

New Hampshire has 14 crisis centers across the state available to assist you if you are victim of domestic violence or sexual assault. Crisis center staff and volunteers work with adults and minors who are victims of physical, sexual, emotional, verbal, and psychological abuse. If you are being abused, an advocate from a crisis center is available to assist you. Website: www.nhcadsv.org.

Statewide, Toll-Free Hotline: 1-866-644-3574

APPENDIX I: SAFETY PLANNING WITH CHILDREN

Safety planning for children who experience domestic violence can help them manage fear and anxiety. It can also help them minimize their risk during violent incidents at home.

The goal of safety planning is the empowerment of children.

Advocates must be careful not to aggravate the fear or anxiety that children of battered women are experiencing. Those working with these children must be committed to assisting the children without frightening them.

Advocates should not insist on safety planning with children. The child who engages in safety planning should be a volunteer who is interested in learning about how to manage fear or anger and how to protect himself/herself from violence perpetrated by the batterer.

Any safety plan must be realistic. It must be age appropriate. The child must be competent to undertake the strategies designed. The plan should be simple.

Possible safety strategies for children include:

- Stay out of the parents' fight. Children can be hurt by flying objects or by blows intended for the victim.
- Go to your room or other safe place in the house.
- Identify escape routes from the house.
- Go to a friend or neighbor's house.
- Call for help. Every child should know how to make an emergency 911 call. Role-playing a call will be helpful.
- Identify an adult you can trust and tell that adult what is happening at your house.

Safety planning does not guarantee safety. However, it may empower children to act to protect themselves and may reduce the risk of physical harm to the child.

APPENDIX J: 2004 DCYF DOMESTIC VIOLENCE PROTOCOL COMMITTEE

- ❖ Mary Ann Babic-Keith, DCYF Supervisor, Claremont District Office
- ❖ Lee Biggar, DCYF Supervisor, Salem District Office
- ❖ Bernie Bluhm, Administrator, DCYF
- ❖ Katja Fox, Program Coordinator, The Greenbook Project
- ❖ Sylvia Gale, DCYF Supervisor, Nashua District Office
- ❖ Alicia Havey, Domestic Violence Program Specialist, A Safe Place
- ❖ Lynne Joyce, Domestic Violence Program Specialist, Rape and Domestic Violence Crisis Center
- ❖ Lisa LeBlanc, Domestic Violence Program Specialist, A Safe Place
- ❖ Grace Mattern, Executive Director, New Hampshire Coalition Against Domestic and Sexual Violence
- ❖ Karen McCall, Department of Health and Human Services Trainer, New Hampshire Coalition Against Domestic and Sexual Violence
- ❖ Kathleen Monahan, DCYF Supervisor, Littleton District Office
- ❖ Michelle Rosenthal, Domestic Violence Intervention Coordinator, DCYF
- ❖ Pat Spiller, Director, A Safe Place

APPENDIX K: REFERENCE LIST

Accountability and Connection with Abusive Men: a New Child Protection Response to Increasing Family Safety. 2004. Prepared by Fernando Mederos with the Massachusetts Department of Social Services Domestic Violence Unit. Family Violence Prevention Fund.

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Effective Intervention in Domestic Violence & Child Maltreatment Cases: Guidelines for Policy and Practice (Greenbook). 1999. National Council of Juvenile and Family Court Judges. Reno, NV.

Ganley, Anne L., Schechter, Susan. 1996. *Domestic Violence: A National Curriculum for Child Protective Services.* Family Violence Prevention Fund, San Francisco, CA.

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Material was adapted from the document Domestic Violence Protocol: A Guide for Child Protective Service Workers and Domestic Violence Victim Advocates, which was written by representatives from Montgomery County Children Services, The YWCA Shelter and Housing Network, and Artemis Center for Alternatives to Domestic Violence. Funding was provided in 1996 by the Department of Health and Human Services, Administration for Youth and Families, in a grant to Artemis Center for Alternatives to Domestic Violence.