

Policy Brief

Financial Abuse: Securing Economic Protections for Victims of Domestic Violence

Over the last several years, Connecticut has made significant enhancements to our state laws that protect victims of domestic violence and hold offenders accountable. However, we still lag behind many other states with our definition of domestic violence (also referred to as “family violence”) and, therefore, how we as a state seek to address the crime. Because our statutory definition of domestic violence focuses on physical acts or the threat of physical acts, we fail to address one of the most persistent forms of domestic violence – financial abuse.

Connecticut Coalition Against Domestic Violence (CCADV) and our 18 member programs contend that it is critical for the state to include financial orders as part of the civil restraining order process. Giving victims the ability to request financial relief to maintain their safety and basic needs, as well as that of the offender’s dependent children, is a critical piece to ensuring their safety.

PROBLEM

Connecticut’s civil restraining order statute (C.G.S. § 46b-15) fails to fully protect victims:

- Domestic violence is a pattern of coercive, controlling behavior that can include physical abuse, emotional abuse, psychological abuse, sexual abuse and financial abuse
- 98% of abusive relationships include some form of financial abuse
- Some abusers prevent their victims from working or ever event obtaining the skills or training necessary to work, leaving the victim completely dependent financially on the abuser
- Victims often face the agonizing decision of living with the abuse or leaving and potentially facing poverty and homelessness
- By solely focusing on physical acts of violence or the threat of physical acts of violence and not addressing other forms of abuse, the state is not fully addressing the safety and basic needs of victims who seek to end an abusive relationship
- In 2009, the American Bar Association reported that 37 states included some form of spousal and child support as part of the restraining order

PROPOSAL

The civil restraining order process provides a unique opportunity for the state to alter the system of power and control held by abusers over their victims, as well as acknowledge the role that economic security plays in victim safety.

CCADV proposes the following additions to clarify the court’s ability to grant financial relief as part of civil restraining orders:

- If the respondent has the legal duty to do so and the ability to pay, and if necessary for the safety or to maintain the basic needs of the applicant or the respondent’s dependent children, ordering the respondent to: (a) provide financial assistance to the applicant for a period of up to 120 days; and (b) to refrain from terminating utility services provided to the applicant’s household if the parties resided together at the time the applicant applied for relief
- Restraining the respondent from withholding items of the applicant’s personal property which are specified in the order
- Restraining the respondent from taking, converting, or damaging property or assets in which the applicant may have legal or equitable interest

WHAT IS FINANCIAL ABUSE?

Domestic violence is widely considered to be abusive behavior used by a person to maintain power and control over an intimate partner or family member. The most common form of abuse that people associate with domestic violence is physical abuse, such as hitting, slapping, punching and kicking. But in fact, domestic violence is a pattern of coercive, controlling behavior that can go far beyond an act of physical abuse, including emotional abuse, psychological abuse, sexual abuse and financial abuse.

A 2009 national poll conducted by the Allstate Foundation found that 86% of Americans did not associate “economic abuse” with domestic violence.¹ While less commonly understood, financial abuse is a tactic used frequently by abusers to ensure the dependency of their victim. The U.S. Department of Justice defines economic abuse as “making or attempting to make an individual financially dependent by maintaining total control over financial resources, withholding one’s access to money, or forbidding one’s attendance at school or employment.”²

There are generally three categories of financial abuse: preventing the victim from acquiring resources, preventing the victim from using resources, or exploiting the victim’s resources.³ These actions can lead victims to be entirely dependent on their abuser with little or no ability to financially care for themselves or their children.

EXAMPLES OF FINANCIAL ABUSE:

- Forbidding the victim to work or attend school
- Sabotaging employment opportunities by giving the victim a black eye or other visible injury prior to an important meeting
- Jeopardizing employment by stalking or harassing the victim at the workplace
- Denying access to a vehicle or damaging the vehicle so that the victim cannot get to work
- Sabotaging educational opportunities by destroying class assignments
- Withholding money or giving “an allowance”
- Not allowing the victim access to bank accounts
- Hiding family assets
- Running up debt in the victim’s name

THE IMPACT ON LEAVING

According to the National Network to End Domestic Violence, research indicates that financial abuse is experienced in 98% of abusive relationships.⁴ While many factors impact a victim’s decision to leave an abusive relationship, one of the reasons for staying most frequently cited by victims is a lack of access to financial resources. Victims are often confronted with the agonizing decision of staying in an abusive relationship or leaving and possibly facing extreme poverty and homelessness.



Financial retaliation is also extremely common when a victim decides to end an abusive relationship. Upon deciding to leave, a victim will often discover that her⁵ partner has drained the joint bank account leaving her without access to cash. Further, a victim may find that her credit history has been destroyed because her abuser stole her identity and ran up excessive charges on her credit card. That is, of course, if she was ever allowed to build a credit history through use of credit cards or acquisition of assets. Either way, her abuser’s actions have rendered her unable to obtain housing.

When considering the total number of intimate partner violence victims in the U.S., the Center for Disease Control and Prevention reports that nearly 8 million days of paid work and productivity are lost.⁶ Victims miss work for a variety of reasons, including infliction of physical injuries, lack of transportation, depression, fear that her abuser will harass her at the workplace, etc. Without access to cash, credit or stable income, victims can very quickly find themselves homeless. Here in Connecticut, our domestic violence shelters serve nearly 2,400 adults and children each year. The prospect of being homeless is terrifying and reason enough for many victims to remain in an abusive relationship.

USING RESTRAINING ORDERS TO GRANT ECONOMIC PROTECTIONS

The immediate days following a woman's decision to leave are often the most difficult for those who have experienced financial abuse. She is not only contending with the emotional trauma of the abuse, but she must also find a safe place to live and financial resources to care for herself and possibly her children. The reality of financial constraints often results in her return to her abuser. By providing temporary but immediate financial relief to victims through Connecticut's civil restraining order (RO) process, victims will have access to resources that can help keep them safe and keep them away from their abuser.

The RO process provides a unique opportunity for the state to alter the system of power and control held by abusers over their victims. RO laws should "provide remedies that permit a multidimensional reordering of the relationship, from the terms of the legal relationship to a recalibration of the power dynamics."⁷⁷ Financial relief is just as critical to the victim's overall safety as removing a physically abusive partner from the home. "An order to vacate a residence may not offer adequate assistance if a survivor lacks the monetary resources to pay the rent or mortgage."⁷⁸ If by removing the abuser a woman is left without the financial resources to which she has been made dependent, than she will still face harm and uncertainty.

The goal of the RO is to ensure the safety of the victim and that safety is undoubtedly dependent on access to financial resources. Domestic violence can impoverish its victims and leave them vulnerable to increased risk of violence. A significant cost is often borne by a victim who seeks to keep her abuser away as she establishes a free and independent life. As was previously mentioned, lack of access to financial resources is one of the reasons most frequently cited by victims who remain in an abusive relationship. Therefore, if the RO statute is to achieve its "legislative mandate, courts must honor requests for economic justice."⁷⁹



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CONNECTICUT'S CURRENT RESTRAINING ORDER STATUTE

CT General Statutes § 46b-15 – relief from physical abuse by family or household member – states that:

(a) Any family or household member as defined in section 46b-38a who has been subjected to a continuous threat of present physical pain or physical injury, stalking or a pattern of threatening, by another family or household member may make an application to the Superior Court for relief under this section.

(b) The application form shall allow the applicant, at the applicant's option, to indicate whether the respondent holds a permit to carry a pistol or revolver or possesses one or more firearms. The application shall be accompanied by an affidavit made under oath which includes a brief statement of the conditions from which relief is sought. Upon receipt of the application the court shall order that a hearing on the application be held not later than fourteen days from the date of the order. The court, in its discretion, may make such orders as it deems appropriate for the protection of the applicant and such dependent children or other persons as the court sees fit. In making such orders, the court, in its discretion, may consider relevant court records if the records are available to the public from a clerk of the Superior Court or on the Judicial Branch's Internet web site. Such orders may include temporary child custody or visitation rights, and such relief may include, but is not limited to, an order enjoining the respondent from (1) imposing any restraint upon the person or liberty of the applicant; (2) threatening, harassing, assaulting, molesting, sexually assaulting or attacking the applicant; or (3) entering the family dwelling or the dwelling of the applicant. Such order may include provisions necessary to protect any animal owned or kept by the applicant including, but not limited to, an order enjoining the respondent from injuring or threatening to injure such animal. If an applicant alleges an immediate and present physical danger to the applicant, the court may issue an ex parte order granting such relief as it deems appropriate. If a postponement of a hearing on the application is requested by either party and granted, the order shall not be continued except upon agreement of the parties or by order of the court for good cause shown.

CCADV'S PROPOSAL

The state's current statute contains the catch-all phrase "such relief may include, but is not limited to..." before it goes on to outline several types of physical actions that the respondent is enjoined from taking. Based on the broad nature of the catch-all phrase, it would appear that judges can already grant temporary financial relief under this statute. However, it is the experience of our advocates that most judges are unwilling to consider any type of temporary financial relief as part of the process, viewing it as something unrelated to the RO process.

CCADV proposes the following additions to clarify the court's ability to grant financial relief as part of civil restraining orders under C.G.S. § 46b-15 and thereby acknowledge the role that economic security plays in victim safety.

- If the respondent has the legal duty to do so and the ability to pay, and if necessary for the safety or to maintain the basic needs of the applicant or the respondent's dependent children, ordering the respondent to: (a) provide financial assistance to the applicant for a period of up to 120 days; and (b) to refrain from terminating utility services provided to the applicant's household if the parties resided together at the time the applicant applied for relief
- Restraining the respondent from withholding items of the applicant's personal property which are specified in the order
- Restraining the respondent from taking, converting, or damaging property or assets in which the applicant may have legal or equitable interest

This proposal would not apply to the state's temporary, emergency restraining order ("ex parte"). Financial orders would only be considered at the restraining order hearing to consider the application.



CONCLUSION

It is critical that the court system view domestic violence beyond the narrow definition of physical abuse and instead for the totality of the broad crime that it is. "When the civil system is deeply intertwined with the criminal justice system, it tends to restrict the domestic violence narrative to criminal acts and physical violence. Psychological, emotional, and economic abuses are not addressed nor listened to unless they somehow meet the definition of a crime that is recognized by the court."¹⁰

Eliminating what is perceived as the immediate threat of violence is only part of the equation. Ensuring that a victim is given financial protections is as critical a part of providing her with safety as removing the physically abusive partner from the home. Without this protection, a victim is likely to face the continued threat of violence either as a result of homelessness or because she returns to her abuser because of financial constraints.

Referring a victim to another process outside of the RO causes unnecessary delay and fails to meet the immediate safety needs of victims. The abuser has chosen his actions and he should be held accountable for them. By requiring him to provide temporary financial assistance for a time-limited period following the issuance of a RO, the victim is provided the opportunity to regain the power and control over her own life and take the steps necessary to become financially stable and fully independent – something that in many cases, the abuser has prevented her from doing up until that point.

It is never acceptable to ask a victim to choose between her safety and economic survival. It is almost impossible for anyone, whether or not they are a victim of domestic violence, to make basic life decisions if they have no roof over their head. For instance, securing employment will prove difficult if each day is spent figuring out where you will sleep that night. Immediate financial protection could mean the difference between staying or leaving. Connecticut's RO process can and should provide this level of protection.

states include some form of spousal and child support in the civil restraining order

WHAT ARE OTHER STATES DOING?

In 2009, the American Bar Association reported that at least 37 states¹¹ have incorporated some form of child and spousal support in the RO (also referred to as “civil protection orders” or CPOs). The following is a brief synopsis of economic protections provided in the RO process of other northeastern states:

New Hampshire¹²

- Granting the plaintiff the exclusive right of use and possession of household furniture or a specific automobile, unless the defendant exclusively owns such personal property and has no legal duty to support the plaintiff or minor children
- Ordering the defendant to make automobile, insurance, healthcare, utilities, rent, or mortgage payments
- 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
- Ordering the defendant to pay the plaintiff monetary compensation for losses suffered as a direct result of the abuse (e.g.: loss of earnings, medical and dental expenses, moving and shelter expenses)

New Jersey¹³

- Granting exclusive use of the residence to the plaintiff regardless of whether the residence is jointly or solely owned/leased by the parties
- Requiring the defendant to pay monetary compensation to the victim for losses suffered as a direct result of the act of domestic violence (e.g.: loss of earnings or other support, including child or spousal support, cost of repair or replacement of property damaged or destroyed by the defendant, moving expenses)
- Requiring the defendant make or continue to make rent or mortgage payments on the residence occupied by the victim if the defendant has a legal duty to support the victim
- Awarding emergency monetary relief, including emergency support for minor children, to the victim

Vermont¹⁴

- Ordering the defendant to pay the plaintiff’s living expenses for a fixed period of time, if the defendant has a duty to support the plaintiff
- Temporary order of child support, if the defendant has a duty to support the child or children

Maine¹⁵

- Ordering a division of personal property and household goods and furnishings; refrain from taking, converting or damaging property in which the plaintiff has a legal interest
- Ordering payment of temporary support for the dependent party or for a child, where there is a legal obligation to support the dependent party or child
- Ordering payment of monetary compensation to the abused person for losses suffered as a direct result of the abuse

Massachusetts¹⁶

- Ordering the defendant to pay temporary support for the plaintiff or any child in that plaintiff’s custody or both, when the defendant has the legal obligation to support such a person
- Ordering the defendant to pay the person abused monetary compensation for the losses suffered as a direct result of such abuse (e.g.: lost earnings, cost of restoring utilities, medical)

ENDNOTES

- ¹ The Allstate Foundation. *Crisis: Economics and Domestic Violence poll*, May 2009.
- ² Accessed 3.7.13 from <http://www.ovw.usdoj.gov/domviolence.htm>
- ³ Adams, Adrienne E., et al., *Development of the Scale of Economic Abuse. Violence Against Women* 2008; 14; p. 563-588. Accessed 3.11.13 from www.wbg.org.uk/GBA_Present_2_2951060362.pdf.
- ⁴ Accessed 3.7.13 from <http://www.nnedv.org/resources/ejresources/about-financial-abuse.html>
- ⁵ Nationally, 95% of domestic violence victims are female and, therefore, female pronouns will be used when referring to domestic violence victims. All victims of domestic violence deserve protections and all services provided at CCADV's 18 member agencies are available to victims regardless of age, gender, sexual orientation, race, ethnicity, religion, education, economic status or immigration status.
- ⁶ Department of Health and Human Services, Center for Disease Control and Prevention, National Center for Injury Prevention and Control. *Costs of Intimate Partner Violence Against Women in the United States*. March 2003.
- ⁷ Johnson, Margaret E., *Redefining Harm, Reimagining Remedies, and Reclaiming Domestic Violence Law*. UC Davis Law Review; 42; p. 1107-1164. Accessed 3.7.13 from http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1303011.
- ⁸ Sussman, Erika A., *Civil Protection Orders as a Tool for Economic Justice*. The Advocate's Quarterly; Center for Survivor Agency and Justice; issue 3; 2006. Accessed 3.11.13 from http://www.ncdsv.org/images/AdvQuar_POasEconJustice_Spring2006.pdf.
- ⁹ Id.
- ¹⁰ Johnson, supra note 7, at 1141.
- ¹¹ American Bar Association, Commission on Domestic Violence. *Domestic Violence Civil Protection Orders (CPOs) By State*. June 2009. Accessed 3.7.13 from www.americanbar.org/content/dam/aba/migrated/domviol/pdfs/dv_cpo_chart.authcheckdam.pdf.
- ¹² New Hampshire Revised Statutes § 173-B:5; <http://www.gencourt.state.nh.us/rsa/html/XII/173-B/173-B-5.htm>
- ¹³ New Jersey Statutes § 2C:25-29; http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=44678724&Depth=2&depth=2&expandheading=on&headingswithhits=on&hitsperheading=on&infobase=statutes.nfo&record={1892}&softpage=Doc_Frame_PG42
- ¹⁴ Vermont Statutes, 15 § 1103; <http://www.leg.state.vt.us/statutes/fullsection.cfm?Title=15&Chapter=021&Section=01103>
- ¹⁵ Maine Revised Statutes, 19-A § 4007(1); <http://www.mainelegislature.org/legis/statutes/19-A/title19-Asec4007.html>
- ¹⁶ Massachusetts General Laws, 209A § 3; <http://www.malegislature.gov/Laws/GeneralLaws/PartII/TitleII/Chapter209A/Section3>

WHO IS CCADV?

Connecticut Coalition Against Domestic Violence, Inc. (CCADV) is the state's leading voice for domestic violence victims and those agencies that serve them. We are a membership organization of Connecticut's 18 domestic violence service agencies that provide critical support to keep victims safe 24 hours per day, wherever they live in our state. Confidential services provided by our members include a 24-hour toll-free crisis line, emergency shelter, safety planning, counseling, support groups, court advocacy, information and referrals, and community education. These services are provided free of cost to all victims of domestic violence.

Center for Domestic Violence Services at BHcare
Ansonia | 203.736.9944

The Center for Women & Families
Bridgeport | 203.384.9559

Women's Center of Greater Danbury
Danbury | 203.731.5206

Domestic Violence Program United Services, Inc.
Dayville | 860.774.8648

Network Against Domestic Abuse
Enfield | 860.763.4542

Domestic Abuse Services Greenwich YWCA
Greenwich | 203.622.0003

Interval House
Hartford | 860.527.0550

Meriden-Wallingford Chrysalis
Meriden | 203.238.1501

New Horizons
Middletown | 860.347.3044

Prudence Crandall Center
New Britain | 860.225.6357

Center for Domestic Violence Services at BHcare
New Haven | 203.789.8104

Safe Futures
New London | 860.701.6000

Domestic Violence Crisis Center
Norwalk | 203.852.1980

Women's Support Services
Sharon | 860.364.1900

Domestic Violence Crisis Center
Stamford | 203.588.9096

Susan B. Anthony Project
Torrington | 860.482.7133

Safe Haven
Waterbury | 203.575.0036

Domestic Violence Program United Services, Inc.

Willimantic | 860.456.9476