



Intimate Partner Violence in Maryland

Introduction

The terms Intimate Partner Violence (IPV) or Domestic Violence (DV) refer to “physical, sexual, or psychological harm by a current or former partner or spouse.”¹ This definition encompasses married heterosexual and same-sex couples, as well as dating partners. There are four types of IPV: physical violence²; sexual violence³; stalking⁴; and psychological aggression.⁵ It is important to note that both men and women are victims of IPV; “nearly 1 in 4 women (22.3%) and 1 in 7 men (14.0%) aged 18 and older in the United States have been the victim of severe physical violence by an intimate partner in their lifetime.”⁶

Many myths surround IPV. People incorrectly believe that domestic violence is rare, only observed among certain demographics, or that victims of IPV would leave the home if the abusive situations were truly serious. In fact, domestic violence is unacceptably prevalent across all demographics, and victims do not always feel able to leave violent situations if they lack a place to go, or the ability to support themselves and their children.⁷ More than that, victims who are able to leave such circumstances often fear attack or other retribution by their intimate partner. This fear is legitimate as many victims suffer the harshest physical attacks at the time of, or shortly after, departure from the shared home.

These varying misconceptions, as well as some cultural influences, cause people to feel that domestic violence is a private issue rather than a public health concern. However, IPV is a public health issue. A 2010 report by the National Center for Injury

¹ See Center for Disease Control and Prevention: Injury Center: Violence Prevention, *Intimate Partner Violence: Definitions*, <http://www.cdc.gov/ViolencePrevention/intimatepartnerviolence/definitions.html> (last visited January 13, 2017).

² “Physical violence is when a person hurts or tries to hurt a partner by hitting, kicking, or using another type of physical force” . Center for Disease Control and Prevention , *Understanding Intimate Partner Violence Fact Sheet 2014*, <http://www.cdc.gov/violenceprevention/pdf/ipv-factsheet.pdf> (last visited January 13, 2017).

³ Sexual violence is forcing a partner to take part in a sex act when the partner does not consent. *Id.*

⁴ Stalking is a pattern of repeated, unwanted attention and contact by a partner that causes fear or concern for one’s own safety or the safety of someone close to the victim. *Id.*

⁵ Psychological aggression is the use of verbal and non-verbal communication with the intent to harm another person mentally or emotionally and/or exert control over another person. *Id.*

⁶ Center for Disease Control and Prevention: Injury Center: Division of Violence Prevention, *Intimate Partner Violence: Consequences*, <http://www.cdc.gov/violenceprevention/intimatepartnerviolence/consequences.html> (last visited January 13, 2017).

⁷ See generally, United States Department of Agriculture Office of Procurement and Property Management, *Domestic Violence Awareness Handbook*, available at <http://www.dm.usda.gov/shmd/handbook.htm>.

Prevention and Control used data from the National Intimate Partner and Sexual Violence Survey and estimated that 4.7 million women ages 18 and older suffered intimate partner violence each year.⁸ According to the most recent data available, the Centers for Disease Control and Prevention (CDC) found that the lifetime prevalence of physical violence by an intimate partner among women and men is 32.9% and 28.3% respectively, and an estimated 48.4% of women and 48.8% of men experience at least one act of psychological aggression by an intimate partner during their lifetimes.⁹ Although the precise economic costs of IPV are difficult to quantify, they are rising and exceed \$5.8 billion each year; most of which is for medical and mental health services. The CDC also estimates that women lose approximately 8 million days of paid work because of being victims of domestic violence, which equates to over 32,000 full time jobs each year.¹⁰ In addition, victims of IPV may engage in other harmful behaviors in an effort to cope with their experiences. These behaviors may include activities such as smoking, drinking, and/or drug use.¹¹

Status Quo in Maryland

In Maryland alone, 15,055 individuals were victims of domestic violence crimes in 2015.¹² A victim of IPV may seek to obtain either a peace order or protective order against another individual.¹³ Between July 1, 2012 and June 30, 2013, 15,832 temporary protective orders and 17,699 temporary peace orders were issued in Maryland. Additionally, 1,425 final protective orders and 6,797 final peace orders were issued.¹⁴

In order to obtain a peace order or protective order in Maryland, a victim must first file a petition, and then appear for a hearing where a judge determines whether a temporary order will be issued.¹⁵ During that hearing the victim must demonstrate to a judge that there are reasonable grounds that the offender committed the prohibited statutory acts alleged in the petition.¹⁶ If the judge makes such a finding, he or she will issue a temporary order that is generally valid for seven days. To obtain an order that will last for a longer period of time, the victim must return to court within the seven days for a final hearing. At the final hearing the victim and the offender

⁸ Black, M.C., et al., (2011). The National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Summary Report. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, http://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf

⁹ *Id.*

¹⁰ See generally, Centers for Disease Control and Prevention, *Costs of Intimate Partner Violence Against Women in the United States, (March 2013)* <https://stacks.cdc.gov/view/cdc/6543/> (last visited January 13, 2017).

¹¹ Centers for Disease Control and Prevention, *Understanding Intimate Partner Violence Fact Sheet 2014*, <http://www.cdc.gov/violenceprevention/pdf/ipv-factsheet.pdf> (last visited January 13, 2017).

¹² Maryland Network Against Domestic Violence, citing Maryland State Police. *Crime in Maryland: 2013 Uniform Crime Report*. http://mnadv.org/_mnadvWeb/wp-content/uploads/2011/07/2014-Crime-in-Maryland-Uniform-Crime-Report-DV.pdf. (last visited January 13, 2017).

¹³ Md. Code Ann., Fam. Law § 4-501, Md. Code Ann., Cts. & Jud. Proc. § 3-1501. Protective orders cover individuals who are current and former spouses; cohabitants for 90 days; a person related to the respondent by blood, marriage, or adoption; a parent, stepparent, or stepchild; vulnerable adults; or a person who has had a child with the respondent. A peace order covers anyone ineligible for a protective order but who is a victim of abuse. See generally, Comparing Protective and Peace Orders, <http://www.peoples-law.org/node/195>.

¹⁴ Maryland Judiciary, *Annual Statistical Abstract, Fiscal Year 2013*, available at http://mnadv.org/_mnadvWeb/wp-content/uploads/2011/07/DOC259.pdf.

¹⁵ Note that when a court is closed, a district court commissioner may issue an interim order until a temporary hearing occurs.

¹⁶ For a protective order, prohibited acts include: acts that cause serious bodily harm, place the petitioner in fear of imminent serious bodily harm, assault, rape or a sexual offense, false imprisonment, or stalking. A petitioner seeking a peace order can allege any of the above acts of abuse as well as trespass and malicious destruction of property. Md. Code Ann., Fam. Law § 4-501, Md. Code Ann., Cts. & Jud. Proc. § 3-1501.

may present evidence as to the alleged prohibited acts. A judge must find that there is clear and convincing evidence that the offender committed the acts before issuing a final order.¹⁷ A final protective order is typically valid for up to one year but the judge may extend the order in certain circumstances. A final peace order may last for up to six months with the possibility of a six-month extension after a subsequent hearing.

Each type of order affords the victim different types of relief relevant to her needs, including but not limited to a prohibition against contact, emergency family maintenance (child support, alimony, use of family homes), or even that the respondent pay filing fees or court costs. Offenders must surrender all firearms as well. An offender who violates the terms of either a peace or protective order may be subject to criminal penalties in the form of a fine and/or imprisonment.

Recent Legislation

Recent legislation may enhance Maryland's efforts to address IPV. Each of the bills listed below passed the General Assembly and became law:

2014 Legislative Session:

- HB306/SB337: *Crimes - Committing a Crime of Violence in the Presence of a Minor – Penalties*: Enhances the penalty for committing a specified crime of violence when the person knows or reasonably should know that a minor at least 2 years of age is present in a residence.
- HB307/SB333: *Peace Orders and Protective Orders - Burden of Proof*: Changes the standard of proof from clear and convincing evidence to a preponderance of the evidence by which a judge in a peace order hearing must make specified findings.
- HB309/SB334: *Family Law - Domestic Violence - Permanent Final Protective Orders*: Requires a court to issue a permanent final protective order against an individual who is sentenced to serve, instead of who served, a term of imprisonment of at least 5 years for specified crimes and who has served at least 12 months of the sentence. Expands the number of victims eligible for a final permanent protective order by adding second-degree assault, the most common domestic violence crime, to the list of specified crimes.
- HB352/SB369: *Peace Orders and Protective Orders - Penalties - Second or Subsequent Offenses*: Makes specified violations for failing to comply with an interim, a temporary, or a final protective order a prior offense for the purposes of determining penalties for a second or subsequent offense for failing to comply with an interim, a temporary, or a final peace order.

¹⁷ When deciding whether to grant a peace order, a judge must not only find that the petitioner committed the acts alleged, but also that he or she is likely to commit such acts again. This is contrary to a protective order, which requires only a finding that the petitioner committed such acts. On October 1, 2014 the standard of proof will be changed from clear and convincing evidence to a preponderance of the evidence.

2015 Legislative Session

- SB269/HB0225: *Domestic Violence – Additional Relief*: Expands the relief that may be awarded in a final protective order to include any other relief that a judge determines is necessary to protect a person eligible for relief from abuse.
- SB315/HB224: *Domestic Violence – 2-Year Protective Order*: Specifies that a court may issue a final protective order for a period not to exceed 2 years by consent of the respondent under certain circumstances; and authorizes a judge to extend the term of a protective order if the respondent named in the protective order consents to the extension.
- SB477/HB606: *Domestic Violence – Persons Eligible for Relief*: Alters, for specified purposes relating to domestic violence, the definition of "person eligible for relief" to include an individual who has had a sexual relationship with the respondent.

How Maryland Can Improve the System for Victims of IPV

Each of the recently passed bills represents a positive step toward strengthening offender accountability and affording victims improved options and remedies. As important as these provisions are, systemic changes are warranted within the judicial system as well.¹⁸ Court personnel are neither consistently nor adequately following certain best practices. As a result, the offender and victim are not always best served during peace and protective order hearings. Basic practices such as a staggered exit strategy or having a bailiff present in waiting areas shared by both parties help improve the safety of victims.¹⁹ In addition, judges should advise parties of their responsibilities under the order—such as the surrender of firearms by a respondent—and allow time for both parties to ask questions about the process and any order that is issued. Such administrative or procedural changes impose little or no cost and can make the peace and protective order process more efficient and safe for everyone involved.

The lack of sufficient education and training of law enforcement officials minimizes their ability to effectively adjudicate domestic violence cases, or ensure a victim's safety throughout the legal process. Several states and organizations have taken note of these issues and undertaken studies and assessments as to how to improve the legal process. North Carolina's Administrative Office of the Courts and Domestic Violence Advisory Committee suggests simple steps such as using specialized judges with training in domestic violence to be assigned to the docket.²⁰ Among other benefits, these assignments would allow for consistency in enforcement

¹⁸ See generally Administrative Office of the Courts Department of Family Administration, *Maryland Judge's Domestic Violence Resource Manual*; L. Duker and J. Whiton, *Protecting Victims of Domestic Violence in Montgomery County: Challenges and Opportunities with Protective and Peace Orders* (2011), available at http://courtwatchmontgomery.org/wp-content/uploads/2013/11/courtwatchmontgomery_report_3.pdf, 7-10, 17; L. Duker and J. Whiton, *Just "A Piece of Paper?": Domestic Violence Peace and Protective Orders in Montgomery County District Courts, Second Monitoring Report* (2012), available at http://courtwatchmontgomery.org/wp-content/uploads/2012/11/courtwatchmontgomery_report_2.pdf, at 8-12.

¹⁹ A staggered exit strategy is one in which the abuser's exit is delayed so that the victim is able to obtain his or her order and leave the courthouse safely.

²⁰ See generally North Carolina Administrative Office of the Courts, *North Carolina Domestic Violence Best Practices Guide for District Court Judges* (2010, updated 2012), available at <http://www.nccourts.org/Citizens/CPrograms/Victims/Documents/DVBestPracticesGuide.pdf>

and application of rules and would ensure a judge's familiarity with relevant resources and ability to follow through with the parties.²¹ Other suggestions include consistency in policies for continuances (extensions of time for proceeding to the final order) and ensuring that a judge is familiar with lethality assessment and other factors associated with violence and victimization.²²

The National Council of Juvenile and Family Court Judges Family Violence Department identified general values and practices that each profession should take part in implementing throughout the civil protection order system. These values include safety, autonomy, accessibility and competence.²³ By taking note of these values and methods of implementation by professionals throughout the civil protection order system, the interests of the victims and perpetrators alike can be better served.

Conclusion

In sum, domestic violence is a pervasive problem that affects not only Marylanders but also society at large. The significant costs to victims and society from both a public health and financial perspective warrant a close examination of the ways in which domestic violence is handled by all professions. While legislation has increased the ability for victims to pursue action against an abuser and ultimately leave an abusive situation, domestic violence still has low reporting rates and a high rate of recidivism. Broad changes are warranted within the court system so that victims seeking redress and protection from abuse are able to feel secure and navigate the system successfully—whether before, during, or after a hearing. By taking into account the duties and responsibilities of each member of the judiciary, as well as the many agreed upon best practices, the safety and wellness of domestic violence victims could be strengthened.

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²¹ *Id.* at 30.

²² *Id.* at 43.

²³ See generally M. Sheeran and E. Meyer, *Civil Protection Orders: A Guide for Improving Practice* (2010), available at <https://www.justice.gov/file/852781/download>.

Other factors include reliability, collaboration, culture and diversity, and community engagement.

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