

# A Domestic Violence Law Synopsis

The legal representation of battered women, an important area of family law for legal services attorneys, raises numerous issues. Not only do battered women need confidentiality and immediate safety for themselves and their children, but also they need assistance in selecting the appropriate legal remedies to help plan for a safe future. For example, they need advice on whether to seek a protection order and, if so, what kind. A battered woman may need counsel regarding plans to move to another state for family support or employment opportunities as they may affect custody and visitation rights.

Most family law matters, including questions on domestic violence cases, are governed by state law. Uniform laws and acts, such as the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) and the Parental Kidnapping Prevention Act, may come into play in interstate custody disputes if your state has adopted the uniform law. Federal law, such as the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, may affect the rights of your client.

For example, if a recipient of Temporary Assistance for Needy Families (TANF) is a battered woman seeking a protection order, she may be able to rely on protections from welfare program requirements that the Family Violence Option of the Personal Responsibility and Work Opportunity Reconciliation Act offers.<sup>1</sup>

Some of the legal needs of battered women, such as confidentiality and protection orders, raise issues that cut across state lines and are discussed here. Introductory materials on the advantages and disadvantages of the Uniform Child Custody and Jurisdiction Act (UCCJA), the UCCJEA, and the Parental Kidnapping Prevention Act are presented, as are some resources for the representation of battered women. This group of articles is not intended as a comprehensive presentation on the legal rights of battered women.

Various emerging issues are beyond the scope of this manual. They include

- “failure to protect” as a basis for the child welfare system’s removal of children from battered mothers;<sup>2</sup>

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<sup>1</sup> This depends on whether the state where she resides has adopted the Family Violence Option. For background information on the Family Violence Option, see Wendy Pollack & Martha F. Davis, *The Family Violence Option of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996: Interpretation and Implementation*, 30 CLEARINGHOUSE REV. 1079 (Mar.–Apr. 1997).

<sup>2</sup> See, e.g., Monica Drinane & Marlene Halpern, *Filling the Gaps: Domestic Violence and Child Welfare Agency*, 35 CLEARINGHOUSE REV. 339 (Sept.–Oct. 2001).

- the parental alienation syndrome, a controversial psychological theory that batterers use to undermine battered women in custody challenges;<sup>3</sup>
- the complicated welfare and immigration law rules regarding battered immigrant women, their legal status, and access to benefits;<sup>4</sup>
- domestic violence as a barrier to employment;<sup>5</sup> and
- discrimination against domestic violence survivors in housing.<sup>6</sup>

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<sup>3</sup> See Nancy Goldhill, *Battered Women Losing Custody: Parental Alienation Syndrome and Other Issues*, LSJ REPORT (2000).

<sup>4</sup> For more information on the rights of battered immigrant women, see [www.nowldef.org](http://www.nowldef.org) (NOW Legal Defense and Education Fund's Web site).

<sup>5</sup> Robin Runge et al., *Domestic Violence as a Barrier to Employment*, 34 CLEARINGHOUSE REV. 552 (Jan.–Feb. 2001).

<sup>6</sup> Wendy R. Weiser & Geoff Boehm, *Housing Discrimination Against Victims of Domestic Violence*, 35 CLEARINGHOUSE REV. 708 (Mar.–Apr. 2002).