

# Bill as Introduced

SB 318-FN - AS INTRODUCED

2014 SESSION

14-2811  
05/10

SENATE BILL

***318-FN***

AN ACT

establishing the crime of domestic violence.

SPONSORS:

Sen. Soucy, Dist 18; Sen. Boutin, Dist 16; Sen. Watters, Dist 4; Sen. Hosmer, Dist 7; Sen. Odell, Dist 8; Sen. Cataldo, Dist 6; Rep. Cushing, Rock 21; Rep. G. Chandler, Carr 1; Rep. S. Chandley, Hills 22; Rep. Shurtleff, Merr 11; Rep. Charron, Rock 4

COMMITTEE:

Judiciary

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ANALYSIS

This bill establishes the crime of domestic violence.

-----  
Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Fourteen*

AN ACT establishing the crime of domestic violence.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

- 1        1 New Section; Crime of Domestic Violence. Amend RSA 631 by inserting after section 2-a the  
2 following new section:
- 3        631:2-b Domestic Violence.
- 4        I. A person is guilty of domestic violence if the person commits any of the following against a  
5 family or household member or intimate partner:
- 6            (a) Purposely or knowingly causes bodily injury or unprivileged physical contact against  
7 another by use of physical force;
- 8            (b) Recklessly causes bodily injury to another by use of physical force;
- 9            (c) Negligently causes bodily injury to another by means of a deadly weapon;
- 10          (d) Uses or attempts to use physical force, or by physical conduct threatens to use a  
11 deadly weapon for the purpose of placing another in fear of imminent bodily injury;
- 12          (e) Threatens to use a deadly weapon against another person for the purpose to terrorize  
13 that person;
- 14          (f) Coerces or forces another to submit to sexual contact by using physical force or  
15 physical violence;
- 16          (g) Threatens to use physical force or physical violence to cause another to submit to  
17 sexual contact and the victim believes the actor has the present ability to execute the threat;
- 18          (h) Threatens to use a deadly weapon to cause another to submit to sexual contact and  
19 the victim believes the actor has the present ability to carry out the threat;
- 20          (i) Confines another unlawfully, as defined in RSA 633:2, by means of physical force or  
21 the threatened use of a deadly weapon, so as to interfere substantially with his or her physical  
22 movement;
- 23          (j) Knowingly violates a term of a protective order issued pursuant to RSA 173-B:4, I by  
24 means of the use or attempted use of physical force or the threatened use of a deadly weapon;
- 25          (k) Uses physical force or the threatened use of a deadly weapon against another to block  
26 that person's access to any cell phone, telephone, or electronic communication device with the  
27 purpose of preventing, obstructing, or interfering with:
- 28            (1) The report of any criminal offense, bodily injury, or property damage to a law  
29 enforcement agency; or
- 30            (2) A request for an ambulance or emergency medical assistance to any law  
31 enforcement agency or emergency medical provider.

II. Domestic violence is a class A misdemeanor unless the person uses or threatens to use a deadly weapon as defined in RSA 625:11, V, in the commission of an offense, in which case it is a class B felony.

III. For purposes of this section:

(a) "Family or household member" means:

(1) The actor's spouse or former spouse;

(2) A person with whom the actor is cohabiting as a spouse, parent, or guardian;

(3) A person with whom the actor cohabited as a spouse, parent, or guardian but no longer shares the same residence;

(4) An adult with whom the actor is related by blood or marriage; or

(5) A person with whom the actor shares a child in common.

(b) "Intimate partner" means a person with whom the actor is currently or was formerly involved in a romantic relationship, regardless of whether or not the relationship was sexually consummated.

IV. Upon conviction and sentencing, the court shall document on the sentencing form the specific nature of the relationship between the defendant and the victim, by reference to subparagraphs III(a)(1)-(5) and III(b).

2 New Paragraph; First Degree Assault. Amend RSA 631:1 by inserting after paragraph II the following new paragraph:

III. Upon proof that the victim and defendant were intimate partners or family or household members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be recorded as "First Degree Assault - Domestic Violence."

3 New Paragraph; Second Degree Assault. Amend RSA 631:2 by inserting after paragraph II the following new paragraph:

III. Upon proof that the victim and defendant were intimate partners or family or household members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be recorded as "Second Degree Assault - Domestic Violence."

4 New Paragraph; Reckless Conduct. Amend RSA 631:3 by inserting after paragraph III the following new paragraph:

IV. Upon proof that the victim and defendant were intimate partners or family or household members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be recorded as "Reckless Conduct - Domestic Violence."

5 New Paragraph; Aggravated Felonious Sexual Assault. Amend RSA 632-A:2 by inserting after paragraph IV the following new paragraph:

V. Upon proof that the victim and defendant were intimate partners or family or household members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be recorded as "Aggravated Felonious Sexual Assault - Domestic Violence."

SB 318-FN – AS INTRODUCED

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1       6 New Paragraph; Felonious Sexual Assault. Amend RSA 632-A:3 by inserting after paragraph  
2 IV the following new paragraph:

3           V. Upon proof that the victim and defendant were intimate partners or family or household  
4 members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be  
5 recorded as "Felonious Sexual Assault – Domestic Violence."

6       7 New Paragraph; Sexual Assault. Amend RSA 632-A:4 by inserting after paragraph III the  
7 following new paragraph:

8           IV. Upon proof that the victim and defendant were intimate partners or family or household  
9 members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be  
10 recorded as "Sexual Assault – Domestic Violence."

11       8 New Paragraph; Kidnapping. Amend RSA 633:1 by inserting after paragraph II the following  
12 new paragraph:

13           III. Upon proof that the victim and defendant were intimate partners or family or household  
14 members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be  
15 recorded as "Kidnapping – Domestic Violence."

16       9 Effective Date. This act shall take effect January 1, 2015.

**SB 318-FN - FISCAL NOTE**

AN ACT                establishing the crime of domestic violence.

**FISCAL IMPACT:**

The Judicial Branch, Judicial Council, Department of Corrections and New Hampshire Association of Counties state this bill, as introduced, may increase state and county expenditures by an indeterminable amount in FY 2015 and each year thereafter. There will be no fiscal impact on local expenditures, or state, county, and local revenue.

**METHODOLOGY:**

The Judicial Branch states this bill establishes the crime of domestic violence by adding RSA 631:2-b as well as adding a new subparagraph to several other crimes to label them with "domestic violence" after the name of the offense. The Branch states this bill may not result in a change in the number of cases handled by the Branch, as it just re-labels criminal activity resulting from a domestic situation. On the assumption this bill would neither add nor remove cases from the Branch's caseload, it is expected to have no fiscal impact. The Branch states it may have a fiscal impact of less than \$10,000 associated with making changes to some forms and ensuring the superior court captures the domestic violence related crimes in its system. The Branch states it already has the functionality to capture domestic violence related crimes in the circuit court.

The Judicial Council states this bill does not create any new criminal offenses nor does it increase or decrease most of the penalties for offenses that are already crimes. The Council assumes some misdemeanor offenses that are now brought as class B misdemeanors will be filed as class A misdemeanors. The Council states this bill may result in an indeterminable increase in general fund expenditures if an individual is found to be indigent and the public defender program is unable to provide representation. The majority of the cases (approximately 85%) are handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%). The public defender program is appropriated monies that it expends according to the terms of its contract with the Council, of which the proposed changes in this bill would not impact. The Council states if the public defender program is not used then a contract attorney is used, charging a flat fee of \$275 per misdemeanor case. If an assigned counsel attorney is used the fee is \$60 per hour with a cap of \$1,400 for a misdemeanor charge.

The Department of Corrections states it is not able to determine the fiscal impact of this bill because it does not have sufficient information to predict the number of individuals who would be subject to this legislation. The Department states the average annual cost of incarcerating an individual in the general prison population for the fiscal year ending June 30, 2013 was \$32,872. The cost to supervise an individual by the Department's division of field services for the fiscal year ending June 30, 2013 was \$570.

The New Hampshire Association of Counties states to the extent individuals are charged, convicted, and sentenced to incarceration in a county correctional facility, the counties will have expenditures. The Association is unable to determine the number of individuals who may be charged, convicted or incarcerated as a result of this bill to determine an exact fiscal impact. The average annual cost to incarcerate an individual in a county correctional facility is approximately \$35,000. There is no impact on county revenue.

The Department of Justice states this bill will not have a fiscal impact on the Department because such offenses are typically prosecuted by local and county prosecutors not the Department and any appeals for a conviction for such an offense could be handled within the Department's existing budget.

SB 318-FN - AS AMENDED BY THE SENATE

02/13/14 0411s

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SENATE BILL

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SPONSORS: Sen. Soucy, Dist 18; Sen. Boutin, Dist 16; Sen. Watters, Dist 4; Sen. Hosmer, Dist 7; Sen. Odell, Dist 8; Sen. Cataldo, Dist 6; Rep. Cushing, Rock 21; Rep. G. Chandler, Carr 1; Rep. S. Chandley, Hills 22; Rep. Shurtleff, Merr 11; Rep. Charron, Rock 4

COMMITTEE: Judiciary

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ANALYSIS

This bill establishes the crime of domestic violence.

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Explanation: Matter added to current law appears in *bold italics*.  
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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.



STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Fourteen*

AN ACT establishing the crime of domestic violence.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1        1 Name of Act. This act shall be known as "Joshua's law."

2        2 New Section; Crime of Domestic Violence. Amend RSA 631 by inserting after section 2-a the  
3 following new section:

4        631:2-b Domestic Violence.

5        I. A person is guilty of domestic violence if the person commits any of the following against a  
6 family or household member or intimate partner:

7            (a) Purposely or knowingly causes bodily injury or unprivileged physical contact against  
8 another by use of physical force;

9            (b) Recklessly causes bodily injury to another by use of physical force;

10          (c) Negligently causes bodily injury to another by means of a deadly weapon;

11          (d) Uses or attempts to use physical force, or by physical conduct threatens to use a  
12 deadly weapon for the purpose of placing another in fear of imminent bodily injury;

13          (e) Threatens to use a deadly weapon against another person for the purpose to terrorize  
14 that person;

15          (f) Coerces or forces another to submit to sexual contact by using physical force or  
16 physical violence;

17          (g) Threatens to use physical force or physical violence to cause another to submit to  
18 sexual contact and the victim believes the actor has the present ability to execute the threat;

19          (h) Threatens to use a deadly weapon to cause another to submit to sexual contact and  
20 the victim believes the actor has the present ability to carry out the threat;

21          (i) Confines another unlawfully, as defined in RSA 633:2, by means of physical force or  
22 the threatened use of a deadly weapon, so as to interfere substantially with his or her physical  
23 movement;

24          (j) Knowingly violates a term of a protective order issued pursuant to RSA 173-B:4, I by  
25 means of the use or attempted use of physical force or the threatened use of a deadly weapon;

26          (k) Uses physical force or the threatened use of a deadly weapon against another to block  
27 that person's access to any cell phone, telephone, or electronic communication device with the  
28 purpose of preventing, obstructing, or interfering with:

29            (1) The report of any criminal offense, bodily injury, or property damage to a law  
30 enforcement agency; or

1 (2) A request for an ambulance or emergency medical assistance to any law  
2 enforcement agency or emergency medical provider.

3 II. Domestic violence is a class A misdemeanor unless the person uses or threatens to use a  
4 deadly weapon as defined in RSA 625:11, V, in the commission of an offense, in which case it is a  
5 class B felony.

6 III. For purposes of this section:

7 (a) "Family or household member" means:

8 (1) The actor's spouse or former spouse;

9 (2) A person with whom the actor is cohabiting as a spouse, parent, or guardian;

10 (3) A person with whom the actor cohabited as a spouse, parent, or guardian but no  
11 longer shares the same residence;

12 (4) An adult with whom the actor is related by blood or marriage; or

13 (5) A person with whom the actor shares a child in common.

14 (b) "Intimate partner" means a person with whom the actor is currently or was formerly  
15 involved in a romantic relationship, regardless of whether or not the relationship was sexually  
16 consummated.

17 IV. Upon conviction and sentencing, the court shall document on the sentencing form the  
18 specific nature of the relationship between the defendant and the victim, by reference to  
19 subparagraphs III(a)(1)-(5) and III(b).

20 3 New Paragraph; First Degree Assault. Amend RSA 631:1 by inserting after paragraph II the  
21 following new paragraph:

22 III. Upon proof that the victim and defendant were intimate partners or family or household  
23 members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be  
24 recorded as "First Degree Assault – Domestic Violence."

25 4 New Paragraph; Second Degree Assault. Amend RSA 631:2 by inserting after paragraph II the  
26 following new paragraph:

27 III. Upon proof that the victim and defendant were intimate partners or family or household  
28 members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be  
29 recorded as "Second Degree Assault – Domestic Violence."

30 5 New Paragraph; Reckless Conduct. Amend RSA 631:3 by inserting after paragraph III the  
31 following new paragraph:

32 IV. Upon proof that the victim and defendant were intimate partners or family or household  
33 members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be  
34 recorded as "Reckless Conduct – Domestic Violence."

35 6 New Paragraph; Aggravated Felonious Sexual Assault. Amend RSA 632-A:2 by inserting after  
36 paragraph IV the following new paragraph:

37 V. Upon proof that the victim and defendant were intimate partners or family or household

SB 318-FN – AS AMENDED BY THE SENATE

- Page 3 -

1 members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be  
2 recorded as "Aggravated Felonious Sexual Assault – Domestic Violence."

3 7 New Paragraph; Felonious Sexual Assault. Amend RSA 632-A:3 by inserting after paragraph  
4 IV the following new paragraph:

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6 members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be  
7 recorded as "Felonious Sexual Assault – Domestic Violence."

8 8 New Paragraph; Sexual Assault. Amend RSA 632-A:4 by inserting after paragraph III the  
9 following new paragraph:

10 IV. Upon proof that the victim and defendant were intimate partners or family or household  
11 members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be  
12 recorded as "Sexual Assault – Domestic Violence."

13 9 New Paragraph; Kidnapping. Amend RSA 633:1 by inserting after paragraph II the following  
14 new paragraph:

15 III. Upon proof that the victim and defendant were intimate partners or family or household  
16 members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be  
17 recorded as "Kidnapping – Domestic Violence."

18 10 New Paragraph; Stalking. Amend RSA 633:3-a by inserting after paragraph VII the  
19 following new paragraph:

20 VIII. Upon proof that the victim and defendant were intimate partners or family or  
21 household members, as those terms are defined in RSA 631:2-b, III, a conviction under this section  
22 shall be recorded as "Stalking – Domestic Violence."

23 11 Effective Date. This act shall take effect January 1, 2015.

SB 318-FN - VERSION ADOPTED BY BOTH BODIES

02/13/14 0411s

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SENATE BILL

***318-FN***

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COMMITTEE:

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AN ACT establishing the crime of domestic violence.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Name of Act. This act shall be known as "Joshua's law."

2 2 New Section; Crime of Domestic Violence. Amend RSA 631 by inserting after section 2-a the  
3 following new section:

4 631:2-b Domestic Violence.

5 I. A person is guilty of domestic violence if the person commits any of the following against a  
6 family or household member or intimate partner:

7 (a) Purposely or knowingly causes bodily injury or unprivileged physical contact against  
8 another by use of physical force;

9 (b) Recklessly causes bodily injury to another by use of physical force;

10 (c) Negligently causes bodily injury to another by means of a deadly weapon;

11 (d) Uses or attempts to use physical force, or by physical conduct threatens to use a  
12 deadly weapon for the purpose of placing another in fear of imminent bodily injury;

13 (e) Threatens to use a deadly weapon against another person for the purpose to terrorize  
14 that person;

15 (f) Coerces or forces another to submit to sexual contact by using physical force or  
16 physical violence;

17 (g) Threatens to use physical force or physical violence to cause another to submit to  
18 sexual contact and the victim believes the actor has the present ability to execute the threat;

19 (h) Threatens to use a deadly weapon to cause another to submit to sexual contact and  
20 the victim believes the actor has the present ability to carry out the threat;

21 (i) Confines another unlawfully, as defined in RSA 633:2, by means of physical force or  
22 the threatened use of a deadly weapon, so as to interfere substantially with his or her physical  
23 movement;

24 (j) Knowingly violates a term of a protective order issued pursuant to RSA 173-B:4, I by  
25 means of the use or attempted use of physical force or the threatened use of a deadly weapon;

26 (k) Uses physical force or the threatened use of a deadly weapon against another to block  
27 that person's access to any cell phone, telephone, or electronic communication device with the  
28 purpose of preventing, obstructing, or interfering with:

29 (1) The report of any criminal offense, bodily injury, or property damage to a law  
30 enforcement agency; or

(2) A request for an ambulance or emergency medical assistance to any law enforcement agency or emergency medical provider.

II. Domestic violence is a class A misdemeanor unless the person uses or threatens to use a deadly weapon as defined in RSA 625:11, V, in the commission of an offense, in which case it is a class B felony.

III. For purposes of this section:

(a) "Family or household member" means:

(1) The actor's spouse or former spouse;

(2) A person with whom the actor is cohabiting as a spouse, parent, or guardian;

(3) A person with whom the actor cohabited as a spouse, parent, or guardian but no longer shares the same residence;

(4) An adult with whom the actor is related by blood or marriage; or

(5) A person with whom the actor shares a child in common.

(b) "Intimate partner" means a person with whom the actor is currently or was formerly involved in a romantic relationship, regardless of whether or not the relationship was sexually consummated.

IV. Upon conviction and sentencing, the court shall document on the sentencing form the specific nature of the relationship between the defendant and the victim, by reference to subparagraphs III(a)(1)-(5) and III(b).

3 New Paragraph; First Degree Assault. Amend RSA 631:1 by inserting after paragraph II the following new paragraph:

III. Upon proof that the victim and defendant were intimate partners or family or household members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be recorded as "First Degree Assault – Domestic Violence."

4 New Paragraph; Second Degree Assault. Amend RSA 631:2 by inserting after paragraph II the following new paragraph:

III. Upon proof that the victim and defendant were intimate partners or family or household members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be recorded as "Second Degree Assault – Domestic Violence."

5 New Paragraph; Reckless Conduct. Amend RSA 631:3 by inserting after paragraph III the following new paragraph:

IV. Upon proof that the victim and defendant were intimate partners or family or household members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be recorded as "Reckless Conduct – Domestic Violence."

6 New Paragraph; Aggravated Felonious Sexual Assault. Amend RSA 632-A:2 by inserting after paragraph IV the following new paragraph:

V. Upon proof that the victim and defendant were intimate partners or family or household

SB 318-FN – VERSION ADOPTED BY BOTH BODIES

- Page 3 -

1 members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be  
2 recorded as "Aggravated Felonious Sexual Assault – Domestic Violence."

3 7 New Paragraph; Felonious Sexual Assault. Amend RSA 632-A:3 by inserting after paragraph  
4 IV the following new paragraph:

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6 members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be  
7 recorded as "Felonious Sexual Assault – Domestic Violence."

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9 following new paragraph:

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13 9 New Paragraph; Kidnapping. Amend RSA 633:1 by inserting after paragraph II the following  
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15 III. Upon proof that the victim and defendant were intimate partners or family or household  
16 members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be  
17 recorded as "Kidnapping – Domestic Violence."

18 10 New Paragraph; Stalking. Amend RSA 633:3-a by inserting after paragraph VII the  
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20 VIII. Upon proof that the victim and defendant were intimate partners or family or  
21 household members, as those terms are defined in RSA 631:2-b, III, a conviction under this section  
22 shall be recorded as "Stalking – Domestic Violence."

23 11 Effective Date. This act shall take effect January 1, 2015.

## SB 318-FN FISCAL NOTE

AN ACT establishing the crime of domestic violence.

### FISCAL IMPACT:

The Judicial Branch, Judicial Council, Department of Corrections, and New Hampshire Association of Counties state this bill, as amended by the Senate (Amendment #2014-0411s), may increase state and county expenditures by an indeterminable amount in FY 2015 and each year thereafter. There will be no fiscal impact on local expenditures, or state, county, and local revenue.

### METHODOLOGY:

The Judicial Branch states this bill establishes the crime of domestic violence by adding RSA 631:2-b as well as adding a new subparagraph to several other crimes to label them with "domestic violence" after the name of the offense. The Branch states this bill may not result in a change in the number of cases handled by the Branch, as it just re-labels criminal activity resulting from a domestic situation. On the assumption this bill would neither add nor remove cases from the Branch's caseload, it is expected to have no fiscal impact. The Branch states it may have a fiscal impact of less than \$10,000 associated with making changes to some forms and ensuring the superior court captures the domestic violence related crimes in its system. The Branch states it already has the functionality to capture domestic violence related crimes in the circuit court.

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The Department of Corrections states it is not able to determine the fiscal impact of this bill because it does not have sufficient information to predict the number of individuals who would be subject to this legislation. The Department states the average annual cost of incarcerating an individual in the general prison population for the fiscal year ending June 30, 2013 was \$32,872. The cost to supervise an individual by the Department's division of field services for the fiscal year ending June 30, 2013 was \$570.

The New Hampshire Association of Counties states to the extent individuals are charged, convicted, and sentenced to incarceration in a county correctional facility, the counties will have expenditures. The Association is unable to determine the number of individuals who may be charged, convicted or incarcerated as a result of this bill to determine an exact fiscal impact. The average annual cost to incarcerate an individual in a county correctional facility is approximately \$35,000. There is no impact on county revenue.

The Department of Justice states this bill will not have a fiscal impact on the Department because such offenses are typically prosecuted by local and county prosecutors not the Department and any appeals for a conviction for such an offense could be handled within the Department's existing budget.

# Amendments



Sen. Soucy, Dist. 18  
January 27, 2014  
2014-0232s  
05/10

Amendment to SB 318-FN

1 Amend the bill by inserting after the title and resolving clause the following and renumbering the  
2 original sections 1-9 to read as 2-10, respectively:

3  
4 1 Name of Act. This act shall be known as "Joshua's law."

5  
6 Amend the bill by replacing all after section 9 with the following:

7  
8 10 New Paragraph; Stalking. Amend RSA 633:3-a by inserting after paragraph VII the  
9 following new paragraph:

10 VIII. Upon proof that the victim and defendant were intimate partners or family or  
11 household members, as those terms are defined in RSA 631:2-b, III, a conviction under this section  
12 shall be recorded as "Stalking – Domestic Violence."

13 11 Effective Date. This act shall take effect January 1, 2015.



Amendment to SB 318-FN

1 Amend the bill by inserting after the enacting clause the following and renumbering the original  
2 sections 1-9 to read as 2-10, respectively:

3  
4 1 Name of Act. This act shall be known as "Joshua's law."

5  
6 Amend the bill by replacing all after section 9 with the following:

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8 10 New Paragraph; Stalking. Amend RSA 633:3-a by inserting after paragraph VII the  
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10 VIII. Upon proof that the victim and defendant were intimate partners or family or  
11 household members, as those terms are defined in RSA 631:2-b, III, a conviction under this section  
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13 11 Effective Date. This act shall take effect January 1, 2015.

# Committee Minutes

# SENATE CALENDAR NOTICE

## JUDICIARY

Senator Sharon Carson Chairman  
 Senator Bette Lasky V Chairman  
 Senator David Boutin  
 Senator Sam Cataldo  
 Senator Donna Soucy

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

Date: January 8, 2014

## HEARINGS

Tuesday

1/14/2014

JUDICIARY

SH 100

9:00 AM

(Name of Committee)

(Place)

(Time)

### EXECUTIVE SESSION MAY FOLLOW

9:00 AM SB244

requiring the names of certain persons to be reported to the National Instant Criminal Background Check System Index.

10:30 AM SB318-FN

establishing the crime of domestic violence.

#### Sponsors:

##### **SB244**

Sen. David Watters

Rep. Jeffrey Goley

##### **SB318-FN**

Sen. Donna Soucy

Rep. Robert Cushing

Rep. Gene Chandler

Rep. Shannon Chandley

Rep. Stephen Shurtleff

Sen. David Boutin

Sen. David Watters

Sen. Andrew Hosmer

Sen. Bob Odell

Sen. Sam Cataldo

Rep. Gene Charron

# SENATE JUDICIARY COMMITTEE

*Susan Duncan, Senior Legislative Aide*

## **SB 318-FN – establishing the crime of domestic violence.**

Hearing Date: January 14, 2014

Time Opened: 12:31 p.m.

Time Closed: 1:28 p.m.

**Members of the Committee Present:** Senators Carson, Lasky, Boutin, Soucy and Cataldo

**Members of the Committee Absent:** No one

**Bill Analysis:** This bill establishes the crime of domestic violence.

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**Sponsors:** Senator Soucy with Senators Boutin, Watters, Hosmer, Odell, Cataldo and Representatives Cushing, G. Chandler, S. Chandley, Shurtleff and Charron

**Who supports the bill:** Senator Soucy; Senator Boutin, Senator Watters, Bob Blaisdell, NH Police Association and N Troopers Association; Representative Gene Chandler; Attorney Ann Rice, Attorney General's Office; Janet Groat; Representative Sylvia Gail; Representative Jan Schmidt; Representative Linda Tannen; Keith Kuenning on behalf of Child and Family Services; Representative Timothy Horrigan; Nicole Hall; Senator Odell; Jennifer Durant Gagnon; Representative Shannon Chandley; Laura C. Spaulding; Representative Renny Cushing; Elizabeth Morcellino of Bridges; Jennifer Krieger; John R. Canton; Jon Bresler; David Lauren, Assistant Cheshire County Attorney; Chief David Goldstein, NH Association Chiefs of Police; Martha Hongisto; Patricia Lafrance; Attorney Sarah Mattson on behalf of NH Legal Assistance; Claire Loster-Sommers; Jo A. Newell; Meg Kennedy Dugan; Susan Varnum; Peggy Oneil of WISE; Rachel Hickman; Senator Sharon Carson; Senator Martha Fuller Clark; Elizabeth Paine on behalf of the NH Circuit Courts; Assistant Commissioner Earl Sweeney, Department of Safety; Lisa Whittemore; Lynda Ruel of the Office of Victim's and Witness Assistance; Shirley Clarke, Turning Points Network; Carol Calkini of Turning Points; Mo Baxley; Rosemary D'Amy; Abby Carter; Paula Kelly Wall; Katie Edwards; Jenn Demers; Evan Bianchi; Sarah Tinkham; Sandra Matheson, retired from AG's office; Amanda Grady Sexton of NHCADSV; Patti LaFrance on behalf of the County Attorneys; Shanna Beckwith, NHCADSV; Christine Bradbury, NHCADSV; Lyn Schonlett, NHCADSV; Karin Ashton; Jennifer Warburton; Maureen McDonald; Efa Castillo-Turgekn; Elizabeth A. Ganon, NHCADSV; Cory W. Smith; Robin Nash; Shauna Bertwell, New Beginnings; Lauren Moore of New Beginnings; Eliza Phinney of New Beginnings; Julia Kelly-Vall of the Sexual Harassment and Rape Prevention Program; Robin Ramsey of New Beginnings; Molly Donlon Child Advocacy Center; Cynthia Lillibridge of Manchester PD DVU; Judith Stadtman; Kaitlyn E. Cowen; Representative Efstutlia Booras; Sara Dersechino; Jill Crane; Bryan McCormack; Gerald J. Slagle; Ellen Kolb; the Manchester Police Domestic Violence Unit; Krista Moore; Representative Candace Bouchard; Becky Ranes; Sheriff Crain Wiggin of Belknap County; Senator Sam Cataldo; Linda Douglas, NHCADSV

**Who opposes the bill:** Christopher Booth, Concord; Michael E. Thornton, Milford; Joe Humboldt; William Rostere of Manchester; Sarah Heineke

**Summary of testimony presented in support:**

**Senator Soucy**

Explained that this legislation was "a long time coming" and that our understanding of domestic violence in society has evolved significantly over the past 30 years. She said that it is now a matter of both public and private safety and that NH is one of 15 states that has no crime of domestic violence.

She explained the difference between a situation where a person is attacked in a bar by a stranger when the victim can go to a safe place; but when a similar attack occurs with a person they are intimately involved with, then where do they go? She explained that in both cases, the attackers are charged with the same crime – but they are very different circumstances.

This bill takes existing statutes and reorganizes them into one statute. Right now, the same language is placed in separate sections. She explained that police officers and prosecutors still have discretion in the charges that are brought forward, based on the crime. She said that this provides a greater degree of due process and accuracy. She said that this is not changing the law but putting it under an umbrella with more due process afforded. Passing this bill will be giving existing crimes a new name. She explained that while Joshua Savignon is not here to tell us his story today and asked that the bill be labeled "Joshua's Law" in his memory. She closed by saying that this is an important piece of public policy.

**Senator Boutin**

Thanked the Senator for her testimony and asked if he is correct to understand that everything here in this bill is already in statute, but things are defined and now saying it's a crime. **Senator Soucy** responded by saying, "yes," that it's assault but was not necessarily coded as "domestic violence," but that the elements of the crime are the same.

**Assistant Commissioner Sweeney**

Explained that this is a very important bill. He said that the majority of murders in our State are the result of domestic violence . . . that feelings boil over. He explained that years ago officers couldn't do anything with domestic violence situations unless they witnessed it and that there has been a remarkable evolution in this area. He said that this bill is needed and it's long overdue. The bill puts all of the statutes together and that there are no substantive changes to current law. He said that the prior way of indicating domestic violence was that there was a box for the officer to check off, but frequently it got missed in the rush to get the paperwork done and that system just didn't work. He said the form was revised and now the Judge has to check the box off indicating domestic violence. He said that the system is still flawed because someone could be reported but with the inaccuracies, if the individual were convicted, they could continue to purchase firearms. He said it's a "good bill."

**Senator Boutin** asked about federal law that includes stalking and economic abuse. **Commissioner Sweeney** responded that perhaps they should have put in stalking but wasn't sure how they would do economic abuse, that perhaps a statute should come forward with economic abuse.

**Senator Boutin** asked what does "deadly weapon" mean. **Commissioner Sweeney** responded a firearm, knife or any device that can be used to harm someone.



### **Attorney Ann Rice, DOJ**

Explained that NH has been a leader previously in this field with victim advocates, etc., but have never adopted a domestic violence crime. She said that this puts a needed label on the crime. In response to the question sometimes asked as to why this is important, she explained because domestic violence is rarely a one-time occurrence but that generally the severity escalates over time. She explained that in New Hampshire, 93% of all murder-suicides involve domestic violence. She noted that this bill is drafted so that they can specifically and correctly identify folks – that it does not create any new crimes and does not increase fines but combines and labels these crimes as domestic violence. She explained that if a crime is labeled as domestic violence, then prosecutors have an additional burden of proving the relationship and this comes from federal law. She said that there are 11 types of domestic violence crimes and that while the wording may not be exactly the same as current statute, it was tailored here to meet federal law which is actually narrower than current state statutes. The bill requires that upon conviction, the court must specify the relationship if the prosecutor proves beyond a reasonable doubt and they are household or family members, then it must be labeled as domestic violence.

Regarding Senator Boutin's inquiry about stalking, she said that it's a good suggestion and they would have to tailor the language and include that. However, with economic abuse, she said that we do not currently have a crime for that in NH.

**Senator Lasky** asked if this statute affords victims of domestic violence more protections? **Attorney Rice** responded "no," that the protective orders are the same but it would enable the courts, police and prosecutors to see when perpetrators have been convicted in the past of domestic violence.

### **Chief David Goldstein, Franklin**

Testified in support on behalf of the Chiefs of Police. He told of how in the past with domestic violence cases, they would separate the people for the night and then the same things would happen again the next day and it would happen time and time again. He told of how later the victims would withdraw their statements.

He said when he was a State Police Investigator, in the over 100 homicides he investigated, over 50% were domestic-violence related. He said that the oldest victim he investigated was in their 80's and the youngest was 10 weeks old. He told of a horrible quadruple homicide where the perpetrator was sentenced to four consecutive life sentences. He said that in this case, the children looked into the eyes of their biological father as he killed them. He spoke of the training that police officers go through. He said that not many bills are passed each year that will have the potential impact as this one.

### **Betsy Payne, NH Circuit Courts**

Testified on behalf of the Judicial Branch and clarified that they have no position on the policy here. But she indicated that this bill would significantly assist in providing accurate NCIC and NIX system information. She explained that just as was previously testified to, they have used various methods to try to provide accurate information.

**Patty LaFrance, Hillsborough County Attorney** testified on behalf of the County Attorney's Association in support.

She said that this bill is needed. She explained that all simple assaults are charged the same way, but when it comes to knowing whether a person is a serial domestic violence abuser, that there is currently no way for them to know. She said that this information is especially important when they are asking the Judge for bail conditions. She, too, spoke of the inconsistencies in checking off the prior boxes and that they have tried various non-

legislative solutions but that it has not worked. She reminded committee members and those present, that federal law – not state law – dictate gun laws in these situations.

**Amanda Grady Sexton, NHCADSV**

Testified in full support on behalf of the Coalition and their 14 member programs.

She explained that domestic violence is chronically one of the most under-reported crimes and one of the most lethal crimes in our state.

She said that half of all homicides and 92% of all murder-suicides are domestic violence related in New Hampshire.

She explained that New Hampshire statutes have fallen behind other states and countries – and that while this may seem to be “housekeeping,” it is truly a tool that they need in order to distinguish between domestic violence and other assaults. She said that this bill does not change crimes but reorganizes them within our statutes. She thanked Senator Boutin for bringing up the crime of economic abuse and commented that they (NHCADSV) hear daily about the economic barriers that are placed in the way of victims. She said that New Hampshire is one of only 15 remaining states without this.

**Becky Raines**

Testified on behalf of her only child, Joshua, who was only 9 when he was killed. She told of how Joshua loved martial arts and collecting rocks. She said that while she is a survivor of domestic violence, her son, Joshua, is not . . . that he was murdered 5 months ago. She said that she had never recognized that they lived in danger until her former husband threatened to kill her or he would kill Joshua and then kill himself, which he did on August 11, 2013. She said that after this threat, they reported it to the police and were given a pamphlet and that's when she saw that there are many non-physical means of domestic violence. She said that the Court had ordered supervised visitation. She said that even though this bill would probably not have saved Joshua's life, she said it is so painful to see your son ordered to be with the person who has threatened your lives. She said that Joshua will live on in spirit, but asked that this be named “Joshua's Law” to honor her son.

**Senator Carson** offered her deepest condolences on behalf of the entire Committee and thanked her for coming today.

**Summary of testimony presented in opposition:**

**Christopher Booth, Concord**

He said that the reason he is speaking in opposition, that obviously this is a huge problem, but that it will not change anything. He said that there is no definition of a deadly weapon and that anything can be used as a deadly weapon. He said that the definition of domestic violence means absolutely nothing. He told of someone taking something down off a shelf and it falls, killing somebody. He said that they will just get a lot of “tear-jerk” examples and that this is not going to solve any crimes.

**Fiscal Note:** See Fiscal Note

**Future Action:** The Committee took the bill under advisement

sfd

Date hearing report completed: January 18, 2014  
[file: SB 318-FN report]

# Speakers

# SENATE JUDICIARY COMMITTEE

①

Date: January 14, 2014 Time: 10:30 a.m. Public Hearing on SB 318-FN

SB 318-FN - establishing the crime of domestic violence.

Please check box(es) that apply:

SPEAKING	FAVOR	OPPOSED	NAME (Please print)	REPRESENTING
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Senator Watters	Dist 4
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SENATOR DAVID BORTIN	DISTRICT #16
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Senator Donna Soucy	Dist. 18
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bob Blaisdell NH Police Association / NH Troopers Association	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rep Gene Chandler	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Ann Rice	AC's Office
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Janet Groat, Portsmouth NH	<del>Portsmouth NH</del>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Michael E Thornton, Milford NH	self
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rep Seymour Gal	Hills 28
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rep Jan S. S. S.	Hills 20
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rep Linda Tanner	Sullivan 9
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Joe Amodeo	
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	William Kostic	Manchester
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	SARAH HEINEKE	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	KEITH KUENNING	CHILD & FAMILY SERVICES
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	REP. TIMOTHY HERRIGAN	GIRAFFO 6
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Nicole Hall	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sen Odell	Dist. 8
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Jennifer Duran Gagnon	self

# SENATE JUDICIARY COMMITTEE

②

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SB 318-FN - establishing the crime of domestic violence.

Please check box(es) that apply:

SPEAKING	FAVOR	OPPOSED	NAME (Please print)	REPRESENTING
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Shannon Chaudley	Hills Co. 22
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Laura C Spaulding	Concord DD
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rep Robert "Rebby" Cushing	Rock 21
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Elizabeth M Marcellino	Bridges S
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Jennifer Krieger	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	John R Cantin	Advocate
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Jim Bresler Jan Bresler	Self
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	David Lauren, Asst. Cheshire Cty Atty.	Self
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	DAVID GOLDSTEIN	NH ASSN CHIEFS OF POLICE
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Martha Bongisto	Self
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Patricia LaFrance	Hillsborough County Atty.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sarah Mattson	NH Legal Assistance
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Chai Loor-Simmes	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	JA A Newell	Self & NH CADSV
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Meg Kennedy Duggan	Voices Against Violence
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Susan Varnum	Voices Against Violence
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Peggy Mall	WFSZ
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rachel Hickman	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Senator Sharon Cannon	Dist 14

# SENATE JUDICIARY COMMITTEE

(3)

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SB 318-FN - establishing the crime of domestic violence.

Please check box(es) that apply:

SPEAKING	FAVOR	OPPOSED	NAME (Please print)	REPRESENTING
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sen. Martina Julus Clark Dist. 21	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Elizabeth Paine [Elizabeth Paine]	N.H. Circuit Ct.
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Attorney General Rice	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Chief Goldstein	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Earl Sweeney	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Lisa Whittemore	Rockingham 05
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Pynka Ruel	AG's office of Victim/Witness Assistance
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Whitley A Clarke	Turning Points Network
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Carol Collier	Turning Points Network
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	MO BAXLEY	LACONIA NH
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rosemary D'Am	Bristol, NH
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Abby Carter	Barnstead, NH
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Paula Kelley Wall	Rollinsford, NH
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Katie Edwards	Durham NH
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Jenn Demers	Berwick, ME
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Evon Bianchi	Rockport, ME
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SRIZAH TINKHAM	ALTON, NH
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sandra Matheson	retired AG's office
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

# SENATE JUDICIARY COMMITTEE

(4)

Date: January 14, 2014 Time: 10:30 a.m. Public Hearing on SB 318-FN

SB 318-FN - establishing the crime of domestic violence.

Please check box(es) that apply:

SPEAKING	FAVOR	OPPOSED	NAME (Please print)	REPRESENTING
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Amanda Grady Sexton	NHCAADSV
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Patti LaFrance	County Atty's
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Shanna Beckwith	NHCAADSV
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Christine Bradbury	NHCAADSV
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Lyn Schollett	NHCAADSV
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	KARIN ASHTON	NHCAADSV
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Jennifer Warburton	
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Maureen McDonald	NHCAADSV
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Eva Castillo-Turgeon	Self
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Elizabeth A. Garon	NHCAADSV /
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Com W. Smith	Self
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Robin Nash	Self + family
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Shauna Bertwell	New Beginnings
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Lauren Moore	New Beginnings
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Elsa Phinney	New Beginnings
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Willie Kelley-Vall	sexual harassment & rape prevention program
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Robin Ramsey	New Beginnings
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Molly Donlan	Hillsborough County Child Advocacy Center
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Cynthia Lillibridge	Manchester PD DVU

SENATE JUDICIARY COMMITTEE

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Please check box(es) that apply:

SPEAKING FAVOR OPPOSED		NAME (Please print)	REPRESENTING
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Judith Stadtman (Portsmouth)	Self
<input type="checkbox"/>	<input checked="" type="checkbox"/>	KAITLYN E COWEN (NASHUA)	self
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Rep. Elizabeth C Booras (Nashua)	self
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sara Persechino (Hopkinton)	Self
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Jill Crane (Concord)	Self
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Bryan McCormack (Cornerstone Action)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	GERALD J. SLAPLE	NEW BEGINNINGS
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Alex Kolb	self
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Manchester Police Domestic Violence Unit	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Krista Moore	MAIC
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Rep Candace Bouchard	Merrimack
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Becky Ranes	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	CRIG WIGGIN, BELLEVUE COMMUNITY SHERIFF	NIT SHERIFFS ASS
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Janet Groat	self -
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sam Catardo	
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Christopher Booth	Concord
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# Testimony



# State of New Hampshire

DEPARTMENT OF SAFETY  
JAMES H. HAYES BLDG. 33 HAZEN DR.  
CONCORD, N.H. 03305  
603/271-2559

JOHN J. BARTHELMES  
COMMISSIONER OF SAFETY

EARL M. SWEENEY  
ASSISTANT COMMISSIONER

## LEGISLATIVE POSITION NH DEPARTMENT OF SAFETY

### SB 318: Domestic Violence Statute

Dear Honorable Members of the Committee:

This bill is something that is long overdue. New Hampshire's domestic violence statutes have evolved slowly over a period of years and this puts them all in one place, where they will be easy to find and work with, by police officers, victim advocates, prosecutors and defense attorneys. They do not make any substantial changes to the existing statutes, they simply recodify them into a single bill and add an additional paragraph to those laws that makes it clear that the incident was a crime of domestic violence.

One advantage to this bill is it will eliminate any question as to whether a particular incident was a crime of domestic violence or not. In the past, the Criminal Records Unit at the Department of Safety and the Gun Line that firearms dealers must check with before selling a handgun, often had to almost guess at whether a given crime under the circumstances in which it occurred, was domestic violence related or not. At first the judicial system relied on police officers making an arrest for one of these offenses to check off a block as to whether or not this particular assault or whatever was domestic violence related or not. This did not work because sometimes the wrong block was checked and other times nothing was checked when it should have been, so the judicial system revised the form and eliminated the block. That made it more confusing than ever. One example of the harm that can be done if an offense is misclassified is that someone who was convicted of an offense such as simple assault or reckless conduct that did not occur in the context of a domestic situation, would be reported on the criminal history files as a crime of domestic violence. That information would go to the national NCIS database and the individual would be barred from purchasing or possessing a firearm. On the other hand, if an individual committed such an offense in the context of domestic violence and it was not accurately reported, they would have access to firearms that they should not have and a tragedy that could have been averted might occur. By separating out domestic violence crimes and clearly noting in the charging document that they are a crime of domestic violence, the process should become error-free.

The Department of Safety believes this is a good bill, as you can see it has bipartisan support, and we hope it will pass.

APPROVED:

A handwritten signature in dark ink, appearing to be "E. M. Sweeney".

Earl M. Sweeney  
Assistant Commissioner

Testimony of Deputy Attorney General Ann Rice  
January 14, 2014  
Senate Bill 318

For years, New Hampshire has been a leader in addressing the issue of domestic violence, with progressive laws, statewide protocols, victim advocates, and comprehensive services. Interestingly, despite this history, we have not enacted a law that identifies the crime of domestic violence for what it is. Abusers are charged under a variety of laws – such as simple assault and criminal threatening. And, if convicted, their criminal record will show a conviction for simple assault, or criminal threatening. There is no indication in the record that the person was convicted of a crime of domestic violence. That's what this bill does. It establishes a crime of domestic violence.

Why is that important? Unlike most crimes, an incident of domestic violence is rarely is one-time occurrence. Research has made it abundantly clear that domestic violence involves a cycle of violence, and the severity of the abuse, the potential for lethality, escalates over time. In New Hampshire, 50% of all our homicides involve domestic violence, and 93% of all the murder-suicides were the result of domestic violence. The earlier in that cycle that domestic violence is recognized, the more likely the system can intervene.

In the criminal justice system, that means when a police officer is called to a home for a domestic dispute, he or she can call up the criminal histories of the persons involved and see if there's a history of domestic violence. That will help officers evaluate the level of risk they may be facing, as well as the level of risk posed to those involved. For prosecutors, knowing that a person has a prior conviction involving domestic violence will allow for a more informed recommendations on bail, charging decisions, plea negotiations, and sentencing recommendations. For judges, knowing that a person has a prior conviction for domestic violence may be critical to the decision of what bail conditions should be imposed, whether to grant a petition for protective order against the person, the appropriateness of a recommended sentence.

This bill serves a second purpose as well, to ensure that New Hampshire is not being over inclusive with respect to identifying individuals who are prohibited under federal law from purchasing or possessing a firearm. Under federal law, a person who has been convicted of a qualifying domestic violence misdemeanor loses his or her right to purchase or possess firearms. Currently, we have no good way to identify what constitutes a qualifying misdemeanor. In the past, law enforcement officers were expected to check off a box on a complaint form if the crime involved domestic violence, and if the person was ultimately convicted of a crime for which the box had been checked, his or her name would be included in the federal database of individuals who are not permitted to purchase a firearm. It has come to light that there are many individuals whose names are included in that database that should not be included. This bill was drafted in manner that will now allow New Hampshire to correctly identify those who are prohibited under federal law and ensure that people are not being incorrectly included in that data base.

This bill does not create any new crimes. It does not increase the penalty for any crime. It does not impose new restrictions on a person's right to purchase firearms. The bill consolidates

already existing misdemeanor crimes, commonly charged in domestic violence situations, in one place and labels it “domestic violence.” It allows for the labeling of certain felony crimes as domestic violence, and it correctly identifies those misdemeanor crimes for which the federal gun restrictions apply.

I will walk you through the bill. Page 1, lines 6-31, lists 11 types of conduct that would constitute the offense of domestic violence. Each of those is drawn from current law. However, in order to convict a person for an offense under any of these provisions, the prosecutor would have the additional burden of proving that the victim was a family or household member or an intimate partner – something not required under current law. That requirement, which comes from the federal law, is included at page 1, lines 4-5. The definitions of those terms, which mirror the federal law, are included on page 2, lines 4 through 14.

I have provided a hand-out that is a side-by-side comparison of the 11 types of domestic violence crime listed on page 1 of the bill and the current law. The column on the left shows the proposed crime, the column on the right shows the crime under current law. In some cases, the wording is not exactly the same. The reason is that what constitutes a qualifying domestic violence misdemeanor under federal law is more narrow than our current crime. Federal law says that in order to be a qualifying domestic violence misdemeanor, the crime must have as an element, the use or attempted use of physical force or threatened use of a deadly weapon.

Look to the first row of the handout. On the left is the provision of the proposed law, on the right is the current law. The proposed law requires the use of physical force to commit the crime, whereas current law does not.

Similarly, on page 1, fourth row down: the proposed provision includes the requirement of physical force or threatening by physical conduct, neither of which is required under current law.

Lines 1-3 on page 2 define the penalties for the crime of domestic violence. These are drawn directly from current law, no changes have been made.

Page 2, lines 4-14 include the definitions of household or family member and intimate partner.

Page 2, lines 15-17 require that upon conviction for one of these offenses, the court specify on the sentencing form the relationship of the defendant and victim. This will ensure compliance with the federal law and make sure that the list of prohibited people is not over inclusive.

The remaining sections of the bill amend certain felony offenses that are commonly charged in domestic violence situation – first and second degree assault, reckless conduct, aggravated felonious sexual assault, felonious sexual assault, sexual assault and kidnapping. The amendment for each offense is the same. It provides that if the prosecutor proves the offense beyond a reasonable and also proves that the defendant and the victim were household or family members or intimate partners, the conviction will be recorded as, for example, First Degree Assault – Domestic Violence. That will allow a judge, prosecutor or police officer to readily determine whether a prior conviction involved domestic violence.

To the members of the Senate Judiciary Committee,

My name is Betsy Paine. I am an attorney working with the New Hampshire Circuit Court with a focus on domestic violence issues. I have been engaged in this work since 1994.

I appear today on behalf of the judicial branch but have been asked to make it very clear that, while we see this bill as providing a great benefit to the branch in fulfilling some very important obligations that we have, which I will explain further in a moment, the branch does not take a position on the ultimate policy issue. As is our usual practice, we leave those policy considerations completely to the legislature.

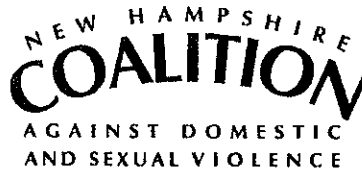
The bill before you would significantly aid the court system in its responsibility to supply accurate and complete criminal history information to the federal National Instant Check System (NICS) and to the National Crime Information Center (NCIC). Submissions of information to these systems must be very specific or the information will not be entered. The crime must have as an element the use or attempted use of physical force or the threatened use of a deadly weapon; and there must be an "intimate relationship" between the parties. SB318 has been drafted to meet the requirements of the both NICS and NCIC.

SB 318, if passed, will assist the Judicial Branch in carrying out its obligation to provide the FBI with the information they are requesting. Absent a state law, the New Hampshire Judicial Branch has tried several different administrative solutions for providing this information. At one time there was simply a box on the complaint form and law enforcement agencies were instructed to check the box to indicate if the crime was "domestic violence related". This solution had a number of flaws; there was no criminal statutory definition of "domestic violence"; the box was not used consistently and the box was checked before the case went through the judicial process. After a research study released in 2007 the box was removed from the criminal complaint form.

Currently there is a form that judges fill out at sentencing. This solution is problematic because the relationship is not currently an element of any of the crimes. On the form the judge is required to identify the type of intimate relationship. Without a state law which provides a clear definition and the proof of this the information at trial it may be difficult for a judge to identify the relationship between the parties. Without this information the criminal history is not entered into NICS.

With the proposed criminal law a person charged with the crime, and provided notice of all the elements of that crime prior to trial, would have an opportunity to mount a defense. No "domestic violence related" information would be recorded unless the person was convicted of the crime and all of the required elements were present.

SB 318 provides the clarity and specificity required for transmission of criminal history data. We support passage of this bill.



## **Criminalizing the Act of Domestic Violence in New Hampshire SB 318-FN**

### **The problem:**

30 years ago domestic violence was a silent crime that few spoke about openly. Since then, we have acknowledged the problem to some extent, establishing adequate civil protections for victims here in New Hampshire. However, we have fallen far behind the rest of the country, and even the world, as New Hampshire still does not have an actual crime of "domestic violence." Because of this shortfall, violent offenders go unrecognized and some victims aren't even aware themselves that what they are experiencing is domestic violence.

Alarming, according to the October 2012 report of the Governor's Commission on Domestic and Sexual Violence Domestic Violence Fatality Review Committee, **50% of homicides and 92% of murder-suicides in New Hampshire are domestic violence related.**

Until we shine a light on this social problem by naming domestic violence for what it is, we are not doing enough to address this epidemic.

### **What this bill does:**

This bill takes charges that are commonly used in domestic violence related cases and pulls them under one crime called "Domestic Violence."

Under current law in New Hampshire, an abuser who assaults their partner in their home is often charged with the same crime as a person who assaults someone at a bar: "simple assault." This is a problem, because statistics show that the intimate nature of the domestic violence situation carries a potential risk for escalated criminal behavior and homicide, while the bar fight typically does not.

Until we are able to distinguish crimes of domestic violence from crimes against non-intimate partners and non-family members, we cannot effectively coordinate our community responses to victims and their children. We **CAN** reduce domestic violence and homicides in New Hampshire, but our courts, prosecutors, child protection agencies, law enforcement, and advocates must first be able to properly identify instances of domestic violence in order to provide assistance to those in need and hold abusers accountable.

### **What this bill does NOT do:**

This bill does not change anything within our civil statutes, nor does it change the substance of the crimes that law enforcement currently uses to charge domestic violence abusers. This bill simply reorganizes these charges under their own specific statute. This bill does not create a mandate – law enforcement will still have the discretion as to how they will charge these crimes, depending on the specifics of each case.

### **Why this is important:**

Domestic violence is largely a crime that is committed behind closed doors. Many victims and their children suffer in silence. Statistics show that domestic violence prevention, education and intervention can reduce assaults and homicides in a community. Efforts to educate victims and offenders are crucial. Passage of this bill will enhance and improve several multi-agency projects currently going on in the criminal justice system that would improve victim notification of important court dates and any changes to the status of their case.

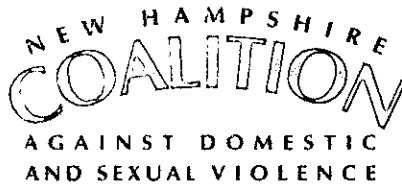
By creating a specific crime of domestic violence, New Hampshire will be able to gather and maintain important statistics on domestic violence crimes occurring in the state. Without knowing the scope of the problem, we cannot adequately solve the problem.

## **Supporting agencies:**

- New Hampshire Coalition Against Domestic and Sexual Violence
- Child and Family Services
- New Hampshire Association of Chiefs of Police
- New Hampshire County Attorney's Association
- New Hampshire Department of Justice
- New Hampshire Department of Safety
- New Hampshire Legal Assistance
- New Hampshire Sheriff's Association

***It is our hope that the Senate Judiciary Committee will support this proposal to create a crime of domestic violence in New Hampshire.***





Good morning Madam Chair and members of the Senate Judiciary Committee. For the record my name is Amanda Grady Sexton and I am the Director of Public Policy at the NH Coalition Against Domestic and Sexual Violence. I am here to speak on behalf of the Coalition and our 14 member programs. In 2012 our programs provided direct service to over 16,000 victims of abuse in the State of New Hampshire. The Coalition is in full support of Senate Bill 318.

30 years ago, domestic violence was a silent crime that hardly anyone spoke about openly. Since then, we have acknowledged the problem to some extent, in that we have established adequate civil protections for victims here in New Hampshire. However, we have fallen far behind the rest of the country, and even the world, as we still do not have an actual crime of "domestic violence". Because of this shortfall, violent offenders go unrecognized as abusers and some victims aren't even aware that what they are experiencing is in fact domestic violence, and as a result they do not seek the help that they need to escape their dangerous situation.

Under current New Hampshire law, an abuser who assaults their partner in their home is often charged with the same crime as a person who assaults someone at a bar: that being "simple assault". This is a problem, because statistics tell us that the intimate nature of the domestic violence scenario carries a potential risk for escalated criminal behavior and homicide, while something like a bar fight scenario typically does not. Alarming, according to the latest report (October 2012) of the Governor's Commission on Domestic and Sexual Violence's Domestic Violence Fatality Review Committee, **50% of homicides and a staggering 92% of murder-suicides in New Hampshire are domestic violence related.**

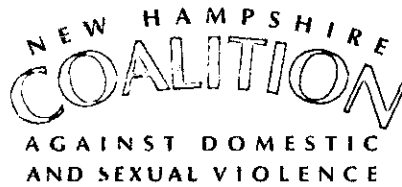
SB 318 takes charges that are commonly used in domestic violence related cases and reorganizes them under one crime called "Domestic Violence".

**It is important to note that this bill does not change anything within our civil statutes, nor does it change the substance of the crimes that law enforcement currently uses to charge domestic violence abusers. This bill simply reorganizes these charges under their own specific statute.**

**This bill does not create a mandate – law enforcement will still have the discretion as to how they will charge these crimes, depending on the specific circumstances of each case.**

Until we are able to distinguish crimes of domestic violence from crimes against non-intimate partners and non-family members, we cannot effectively coordinate our community responses to victims and their children. We can reduce domestic violence and homicides in New Hampshire, but our courts, prosecutors, child protection agencies, law enforcement, and

**NO MORE** | **TOGETHER WE CAN END  
DOMESTIC VIOLENCE & SEXUAL ASSAULT**



advocates must first be able to properly identify instances of domestic violence in order to provide assistance to those in need, as well as hold abusers accountable.

Domestic violence is largely a crime that is committed behind closed doors and suffered in silence. Statistics show that domestic violence prevention, education, and intervention can reduce assaults and homicides in a community. Efforts to educate victims and offenders are crucial.

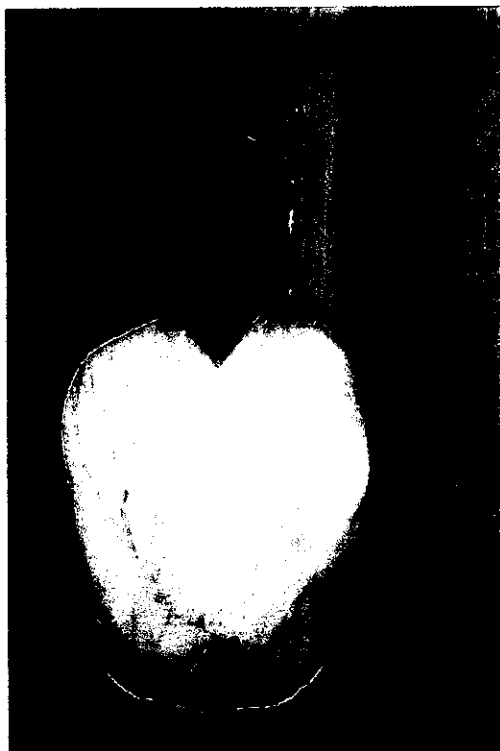
By creating a crime of domestic violence, New Hampshire will be able to gather and maintain important statistics on domestic violence crimes occurring in the state. Without an accurate snapshot of the scope of the problem, we cannot adequately respond to solve it.

Until we shine a light on this social problem by calling domestic violence what it is, and recognizing its inherent societal dangers, we are not doing enough to address this epidemic.

I hope you will support this important measure that will provide all stakeholders with the tools they need to work together and solve this problem in New Hampshire.

**NO MORE** | **TOGETHER WE CAN END  
DOMESTIC VIOLENCE & SEXUAL ASSAULT**

Testimony of Becky Ranes, Mother of Joshua Savyon, on  
SB 318, establishing the crime of domestic violence.  
Senate Judiciary Committee  
Tuesday, January 14, 2014



*Joshua Savyon, age 9*

Good morning Senators. Thank you for your public service and your leadership in New Hampshire. My name is Becky Ranes.

This is a picture of my only child, my son Joshua. Joshua was 9 years old when he was killed. He was about to start the 4<sup>th</sup> grade at the Wilkins Elementary School in Amherst. Joshua loved martial arts, tennis, rock collecting and so much more. He was my pride and joy. He was a very caring, loving boy. In this picture, you can see why Joshua made everybody smile. I'm here because I am a survivor of domestic violence, but the real reason I am here is that my son, Joshua, is not. He was murdered by his father 5 months ago.

Words cannot express how much I miss him. Today I speak for Joshua.

While co-parenting with Joshua's father was always difficult, I never recognized that we had been living in danger until the day he threatened our lives.

In March, 2012, Joshua's father threatened me that he had a gun, and he would either kill me, or he would kill Joshua and then himself. I believed him when he said it. I knew he was capable of doing it. And that is exactly what he did on August 11th 2013. And like he said he would, he shot and killed Joshua, and then committed suicide. He did this during a court-ordered supervised visitation at the YWCA in Manchester.

Testimony of Becky Ranes, Mother of Joshua Savyon, on  
SB 318, establishing the crime of domestic violence.  
Senate Judiciary Committee  
Tuesday, January 14, 2014

After we had been threatened, I reported his threats to the police and was granted a domestic violence protective order. At that point, I was given a pamphlet that was put out by Bridges Domestic & Sexual Violence Support Services and learned about Domestic Violence. I saw the "power and control wheel" that illustrates the potential factors of Domestic Violence. I then saw that many of the non-physical elements of this wheel were part of my everyday experience with Joshua's father.

Because of the threat, the Court ordered supervised visitations for Joshua, supposedly to provide a safe place for Joshua to see his father. The Court also ordered Joshua's father to attend a Batterer's Intervention Program. In addition to providing a safe home for Joshua, I had no choice but to rely on our criminal justice and child protection laws to keep Joshua safe, and even that was not enough. Even though this bill might not have saved my son's life, I do feel it will go a long way toward helping other families in crisis.

You don't have to be beaten or bruised to experience domestic violence. My family and I lived it every day. The threat to kill us was real. The attempts to control us were real. We lived each day with fear. It is so painful and unnerving to watch your child be granted regular access to someone who has threatened to kill him. And despite all of it, Joshua was growing up to be a very happy, generous, always helpful young man. Joshua really liked school and did really well; he earned his Black Belt in Taekwondo and enjoyed his friends and activities. It makes me happy to hear Joshua stories from his friends, peers and teachers about how he had touched their lives.

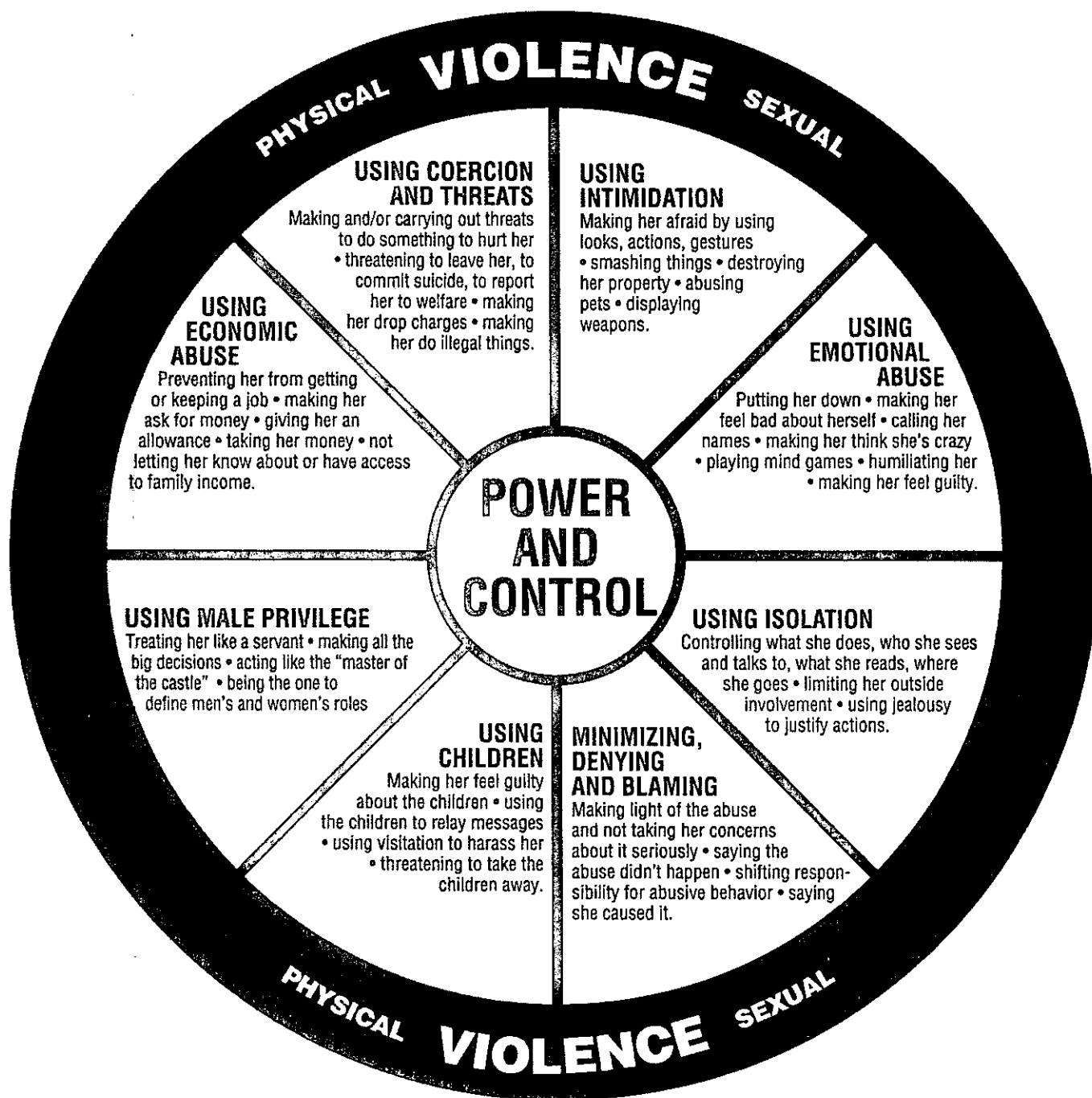
My amazing young son was taken from us in the most violent of ways and this never should have happened.

I want to honor Joshua by helping improve laws that will help other families exposed to domestic violence. No other parent should have to endure losing a child this way.

I believe we should have a crime of domestic violence in New Hampshire. By calling this crime for what it is, I know that we can help the courts and police officers make better informed decisions to put the safety of our children and victims of domestic violence first. My hope is that if what happened to my family makes people take a closer look at how we handle these situations, then something good will come out of this, and Joshua will live on in spirit by helping others who are suffering this silent crime. Because of this, it would mean a lot to me if this could be called Joshua's Law, as part of my son's legacy.

Thank you for listening, and I very much hope that you can support this bill. I respectfully request that I not take any questions at this time.





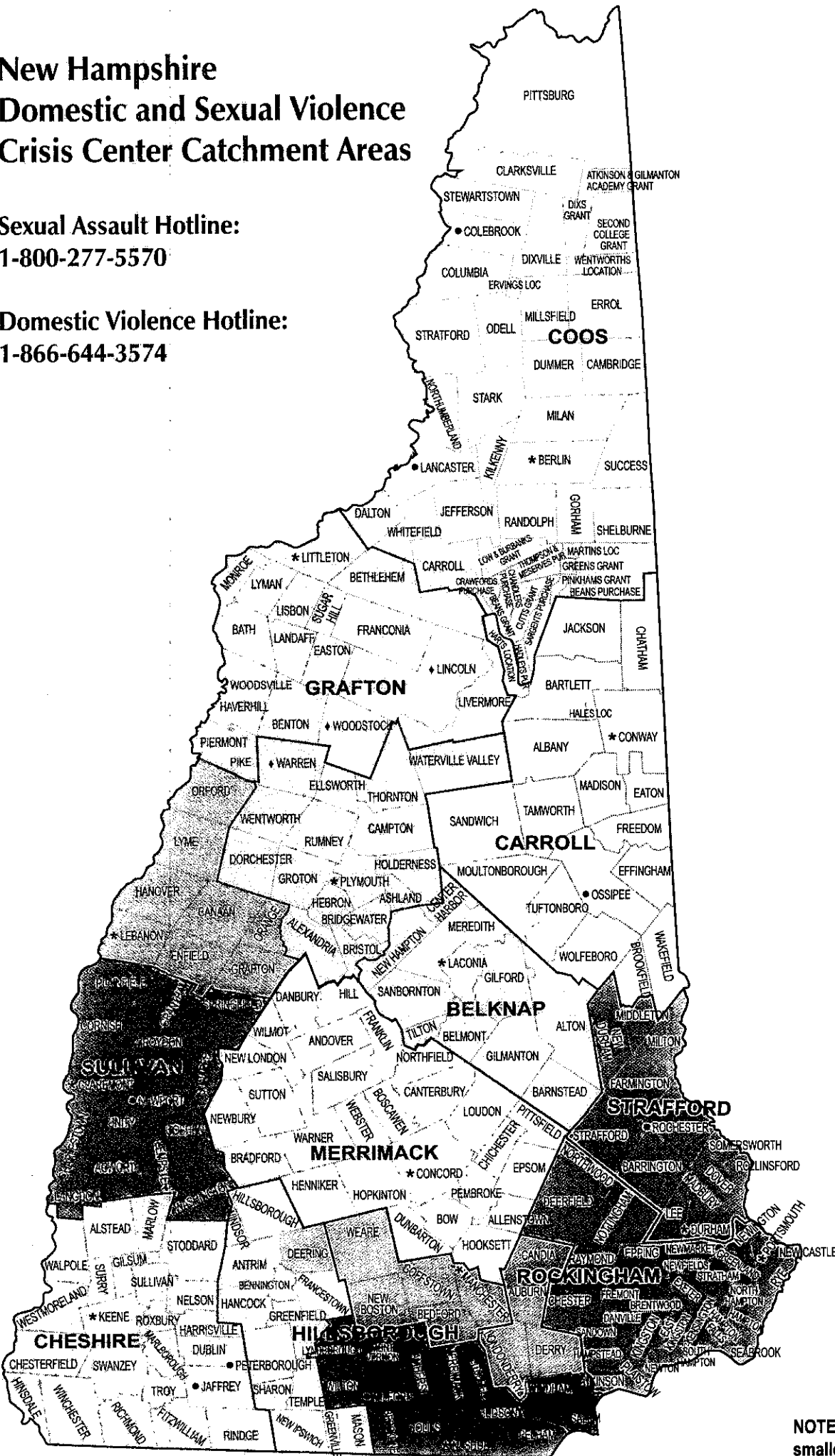
**DOMESTIC ABUSE INTERVENTION PROJECT**















202 East Superior Street  
Duluth, Minnesota 55802  
218-722-2781  
[www.duluth-model.org](http://www.duluth-model.org)


# New Hampshire Domestic and Sexual Violence Crisis Center Catchment Areas

**Sexual Assault Hotline:**  
**1-800-277-5570**

**Domestic Violence Hotline:**  
**1-866-644-3574**



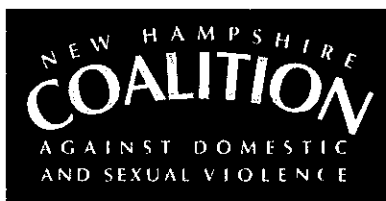
-  RESPONSE
-  SUPPORT CENTER
-  STARTING POINT
-  VOICES
-  WISE
-  NEW BEGINNINGS
-  TURNING POINTS
-  CCCNH
-  A SAFE PLACE
-  SASS
-  SHARPP
-  YWCA
-  BRIDGES
-  MCVP

 Windham & Salem:  
Calls for Sexual Assault – covered by Bridges;  
Calls for Domestic Violence – covered by A Safe Place

◆ VOICES AGAINST VIOLENCE and THE SUPPORT CENTER both provide services to victims in Lincoln, Woodstock and Warren.

\* MAIN OFFICE  
● SATELLITE OFFICE

**NOTE: Due to space restrictions, some smaller towns are not shown on this map**



## **DOMESTIC VIOLENCE, SEXUAL ASSAULT & STALKING SUPPORT SERVICES IN NEW HAMPSHIRE**

**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 - Office Phone: 603-224-8893  
General Web Site: [www.nhcadsv.org](http://www.nhcadsv.org) and Teen Web Site: [www.reachouthn.com](http://www.reachouthn.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
- Access to emergency shelter
- Peer Support Groups
- Assistance with protective/restraining orders and referrals to legal services
- 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)  
[www.coosfamilyhealth.org/response](http://www.coosfamilyhealth.org/response)

### **Turning Points Network**

11 School Street  
**Claremont, NH 03743**  
1-800-639-3130 (toll free crisis line)  
603-543-0155 (Claremont office)  
603-863-4053 (Newport office)  
[www.frec-to-soar.org](http://www.frec-to-soar.org)

### **Crisis Center of Central New Hampshire (CCCNH)**

PO Box 1344  
**Concord, NH 03302-1344**  
1-866-841-6229 (crisis line)  
603-225-7376 (main office)  
[www.cccnh.org](http://www.cccnh.org)

### **Starting Point: Services for Victims of Domestic & Sexual Violence**

PO Box 1972  
**Conway, NH 03818**  
1-800-336-3795 (crisis line)  
603-447-2494 (Conway office)  
603-539-5506 (Ossipee office)  
[www.startingpointnh.org](http://www.startingpointnh.org)

### **Sexual Harassment & Rape Prevention Program (SHARPP)**

8 Ballard Street  
Wolff House  
**Durham, NH 03824**  
1-888-271-SAFE (7233) (crisis line)  
603-862-3494 (office)  
[www.unh.edu/sharpp](http://www.unh.edu/sharpp)

### **Monadnock Center for Violence Prevention**

12 Court Street  
**Keene, NH 03431-3402**  
1-888-511-6287 (crisis line)  
603-352-3782 (crisis line)  
603-352-3782 (Keene office)  
603-209-4015 (Peterborough)  
603-209-4015 and  
603-532-6288 (Jaffrey Office)  
[www.mcvprevention.org](http://www.mcvprevention.org)

### **New Beginnings – Without Violence and Abuse**

PO Box 622  
**Laconia, NH 03247**  
1-866-841-6247 (crisis line)  
603-528-6511 (office)  
[www.newbeginningsnh.org](http://www.newbeginningsnh.org)

### **WISE**

38 Bank Street  
**Lebanon, NH 03766**  
1-866-348-WISE (crisis line)  
603-448-5525 (local crisis line)  
603-448-5922 (office)  
[www.wiseftheuppervalley.org](http://www.wiseftheuppervalley.org)

### **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](http://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)  
[www.ywcanh.org](http://www.ywcanh.org)

### **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](http://www.bridgesnh.org)

### **Voices Against Violence**

PO Box 53  
**Plymouth, NH 03264**  
1-877-221-6176 (crisis line)  
603-536-1659 (local crisis line)  
603-536-5999 (public office)  
603-536-3423 (shelter office)  
[www.vavnh.org](http://www.vavnh.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)  
[www.asafeplacenh.org](http://www.asafeplacenh.org)

### **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](http://www.sassnh.org)



**STATE OF NEW HAMPSHIRE**

**GOVERNOR'S COMMISSION ON  
DOMESTIC AND SEXUAL VIOLENCE**



**DOMESTIC VIOLENCE FATALITY  
REVIEW COMMITTEE**

**NINTH REPORT  
OCTOBER 2012**

<http://www.doj.nh.gov/criminal/victim-assistance/domestic-violence-fatality-review-committee.htm>



Innovation • Partnerships  
Safer Neighborhoods



Office for Victims of Crime  
**OVC**

*"This report was supported by Cooperative Agreement No. 2011-WF-AX-0032 awarded by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this report are those of the contributors and do not necessarily represent the official position or policies of the U.S. Department of Justice."*

*"The Judicial Branch data was supported by 2009-EF-S6-0019, American Recovery and Reinvestment Act, and several awards under the Violence Against Women Act: No. 2009-WF-AX-0019; No. 2010 WF-AX-0042 and No. 2011 No. 2011-WF-AX-0032 awarded by the Office of Violence, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this report are those of the contributors and do not necessarily represent the official position or policies of the U.S. Department of Justice."*

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# **NEW HAMPSHIRE GOVERNOR'S COMMISSION ON DOMESTIC AND SEXUAL VIOLENCE**

## **DOMESTIC VIOLENCE FATALITY REVIEW COMMITTEE 2010-2011 MEMBERSHIP**

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NH District Court and Family Division

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NH Office of the State Medical Examiner

**Detective Jeffrey A. Ardini**  
NH State Police – Major Crime Unit

**Vicki Blanchard**  
Advanced Life Support Coordinator  
Dept of Safety, Bureau of EMS

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NH Police Standards and Training Council

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State Employee Assistance Program

**Alan Cronheim, JD**  
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## **I. INTRODUCTION**

The Domestic Violence Fatality Review Committee (DVFRC, "Committee") was created by Executive Order of Governor Jeanne Shaheen in July 1999. Since its inception, the DVFRC has generated recommendations for the state's three branches of government and the many individuals, agencies, and community organizations which work with domestic violence victims and offenders. These recommendations have generated policies, procedures, and practices to improve New Hampshire's multidisciplinary response to domestic violence.

The DVFRC produces annual reports that include statistical data, recommendations, and responses to the recommendations previously made by the Committee. This year the DVFRC is pleased to release a report which presents 10 years of data on domestic violence-related homicides in New Hampshire from 2001 to 2010. The goal in presenting the data in this way is to improve the understanding of the context of these homicides and to promote the optimal allocation of resources to help prevent future homicides.

Also included in this report are crisis center data from the New Hampshire Coalition Against Domestic and Sexual Violence and court system data from the New Hampshire Judicial Branch. These represent two additional, individual sets of data separate from the homicide data, and are each based on a one-year period for 2011. However, all data sets present important and related information about domestic violence in the state.

The DVFRC strives to promote greater awareness of domestic violence in New Hampshire and opportunities for building safer communities for all our citizens. The Committee is hopeful that this report may serve as a valuable resource to those who serve victims of domestic violence, decision-makers, and researchers.

## **II. DOMESTIC VIOLENCE HOMICIDES IN NEW HAMPSHIRE**

### **III. 2001-2010 DATA REPORT**

This report presents data\* on domestic violence-related homicides in New Hampshire for a 10-year period from 2001 to 2010.

The first section compares domestic violence homicides to total homicides as a way of demonstrating the significance of this problem to New Hampshire citizens. For ease of analysis, the data was then grouped into the following categories:

- **OVERVIEW** of the statistics of homicides, domestic violence homicides and homicide/suicides.
- **WHERE** did the homicides occur? (Does the likelihood of a domestic violence homicide vary depending on where the perpetrator and victim are located?)
- **WHEN** did the homicides occur? (Are there higher or lower risk months, days or times for domestic violence homicides to occur?)
- **HOW** was the homicide committed? (Cause of death?)
- **WHO** was involved? (Victim and perpetrator characteristics?)

The goal in presenting the data in this way is to improve the understanding of the context of these homicides and to promote the optimal allocation of resources to help prevent future homicides.

*\*Data in this report is from the New Hampshire Attorney General's Office of Victim/Witness Assistance Homicide Database.*

## SUMMARY OF DATA

Domestic violence is having a profound effect on the citizens of New Hampshire. In the decade from **2001 to 2010** domestic violence has been one of the leading "causes" of death with the domestic violence homicide rate hovering around the **50%** mark. The average domestic violence homicide rate is **.57 per 100,000** residents. New Hampshire has a relatively low homicide rate compared to the national average, however the relationship of the parties can prove to be a fatal factor. Domestic violence is a causal factor in **92%** of the state's **homicide/suicides**.

### **WHERE**

The highest domestic violence rates are in some of the state's most **rural counties**, **Sullivan County** had the highest rate per capita at **1.17 per 100K**, almost twice the rate of the state average. Home can be a dangerous place for a domestic violence victim, **84%** of domestic violence homicides occurred in the home while only **15%** of these homicides occurred at some place other than a residence.

### **WHEN**

We are beginning to develop data on when domestic violence homicides occur. In the past decade the highest rate of domestic violence homicides have occurred in the summer months and early autumn, **13%** have occurred in **July** with next highest rates at **12%** in **September** and **October**. **Sunday** was the day of the week with the highest rate of domestic violence. Over **70%** of domestic violence homicides in New Hampshire occur between **six pm and six am**.

### **HOW**

Firearms which include handguns and long guns were involved in **48%** of the cases. Of these cases **handguns** were the cause of death in **42%**. Other causes of death in domestic violence homicides include **stabbing** at **22%** and **blunt force impact** at **21%**.

### **WHO**

**Women** were the victims in **67%** of the domestic violence homicides. They were killed by their **partners** in **56%** of the cases and by a **family member** in **31%** of the cases. If the victim was killed by a **partner**, in **86%** of the cases she was **female**. If the victim was killed by a family member, **32%** of the victims were **male**.

The **average age** of domestic violence victims was **38** years old, with the youngest victim being **3 months** old and the **oldest** victim was **92**. The **average age** of domestic violence **perpetrators** was **41**, with the youngest being **16** years old and the oldest being **85**.

In the last decade in **53%** of the cases the **perpetrator** had a **known history of domestic violence**. Only **6%** of **victims** had sought **crisis center services** prior to their death and only **4%** had a **protective order** in place when they died. Only **6%** of victims had a **known history of mental illness** and over half had **no known history of substance abuse**.

Perpetrators of a domestic violence homicide defy the stereotype that drugs or mental illness are causal influences. Only **11%** of perpetrators of domestic violence homicide had a **known history of both mental illness and substance abuse**. Just over one quarter of perpetrators had history of mental illness and **43%** had a **history of substance abuse** though **43%** were **not impaired at the time** they committed the murder.

**NOTE:** The number of homicides equals the number of victims. The number of perpetrators is different from the number of victims because sometimes, more than one perpetrator is involved in the death of a victim and on occasion, one perpetrator might kill more than one victim. Also, the number of perpetrators does not include unsolved cases where a perpetrator has not been identified.

**NOTE:** The percentages in this report have been rounded up or down so the total percentage may not add up to 100%.

**PLEASE NOTE:** Figure 1 reflects the 185 total homicides responded to by the Attorney General's Office Homicide Unit. This includes 26 cases which were ruled justified, accidental or other.

This report is based upon data from 159 homicides, which includes the 133 prosecutable homicides and the 26 homicide suicides.

This report does NOT include data on the 26 cases that were ruled to be justified, accidental or other.

### Total Domestic Violence Homicides vs. Total Homicides 2001–2010

Year	Total Homicides (Including those ruled Justifiable, Accidental or Other)	Total Homicides (Not including 26 cases ruled Justifiable, Accidental or Other)	Total Domestic Violence Homicides	Partner Homicides	Family Members Homicides	DV Related Homicides	Total % DV Homicides n-159
2001	20	19	7	3	4	0	37%
2002	13	9	4	3	0	1	44%
2003	19	18	9	3	3	3	50%
2004	19	19	13	6	7	0	68%
2005	22	19	10	5	4	1	53%
2006	18	16	7	5	1	1	44%
2007	19	13	5	4	1	0	39%
2008	19	15	7	4	1	2	47%
2009	18	15	7	6	1	0	47%
2010	18	16	10	5	3	2	63%
<b>Total</b>	<b>185</b>	<b>159*</b>	<b>79</b>	<b>44</b>	<b>25</b>	<b>10</b>	<b>50%</b>

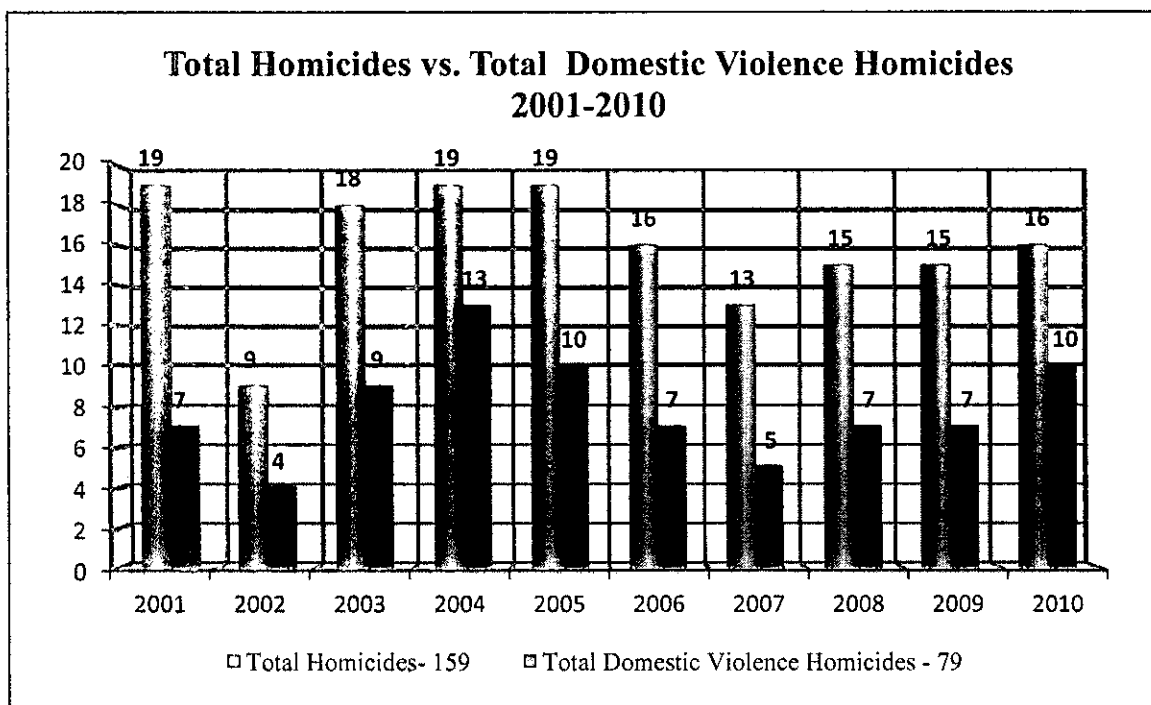
**Figure 1**

From 2001 to 2010, the New Hampshire Attorney General's Office responded to a total of 185 homicide cases. Of those cases, 26 were found to be justified, accidental or other.

The average number of homicides per year was 19. The numbers ranged from a low of 13 homicides in 2002, to a high of 22 homicides in 2005.

Figure 1 depicts that from 2001 to 2010 there were a total of 159\* homicides. This number represents prosecutable homicides and homicide/suicides.

*\*This report is based on data from these 159 homicide cases*



**Figure 2**

**Figure 2** reflects that of the total of 159 homicides, 50% or 79, involved domestic violence.

The average number of domestic violence homicides per year was 8. The numbers ranged from a low of 4 domestic violence homicides in 2002, to a high of 13 domestic violence homicides in 2004.

### Homicide Suicides vs. Domestic Violence Homicide Suicides

Year	Total Prosecutable Homicides	Homicide/Suicides	Domestic Violence Homicide/Suicides	% of DV Homicide Suicides
2001	16	3	3	100%
2002	8	1	0	0%
2003	13	5	5	100%
2004	18	1	1	100%
2005	15	4	3	75%
2006	15	1	1	100%
2007	10	3	3	100%
2008	14	1	1	100%
2009	11	4	4	100%
2010	13	3	3	100%
<b>Totals</b>	<b>133</b>	<b>26</b>	<b>24</b>	<b>92%</b>

Figure 3

Figure 3 reflects that of the total 159 homicides there were 26 homicide suicides. It should be noted that of the 26 homicide suicides, the vast majority, 92% or 24 were domestic violence (DV) related. Except for 2002 and 2005, 100% of the homicide suicides each year were domestic violence homicides.

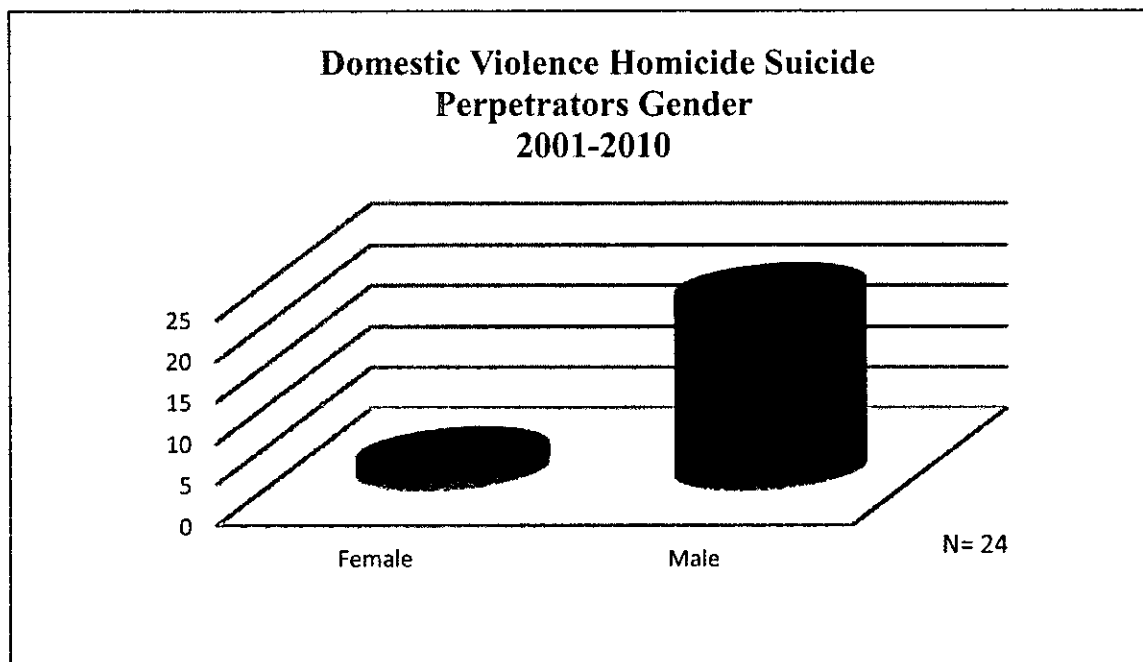


Figure 4

Figure 4 reflects that in the majority of the 24 domestic violence homicide/suicides, 92% or 22 of the perpetrators were male and 8% or 2 were female.

## Where?

### **Domestic Violence Homicides and Total Homicides by County**

<u>County</u>	<u>Total Homicides</u>	<u>Domestic Violence Homicides</u>
Hillsborough	40% or 64	40% or 35
Rockingham	17% or 17	22% or 17
Grafton	9% or 14	5% or 4
Strafford	7% or 11	5% or 4
Belknap	6% or 9	8% or 6
Merrimack	6% or 9	4% or 3
Sullivan	5% or 8	6% or 5
Carroll	5% or 8	1% or 1
Coos	4% or 6	3% or 2
Cheshire	2% or 3	3% or 2
<b>Total</b>	<b>159</b>	<b>79</b>

**Figure 5**

Figure 5 and Figure 6 reflect that for both the **159 total homicides** and the **79 domestic violence homicides**, **Hillsborough County**, the county with the **greatest population**, had the **largest number of total homicides**, as well as the **largest number of domestic violence homicides**.

**Cheshire County** had the **lowest number of total homicides** and **Carroll County** had the **lowest number of domestic violence homicides**.



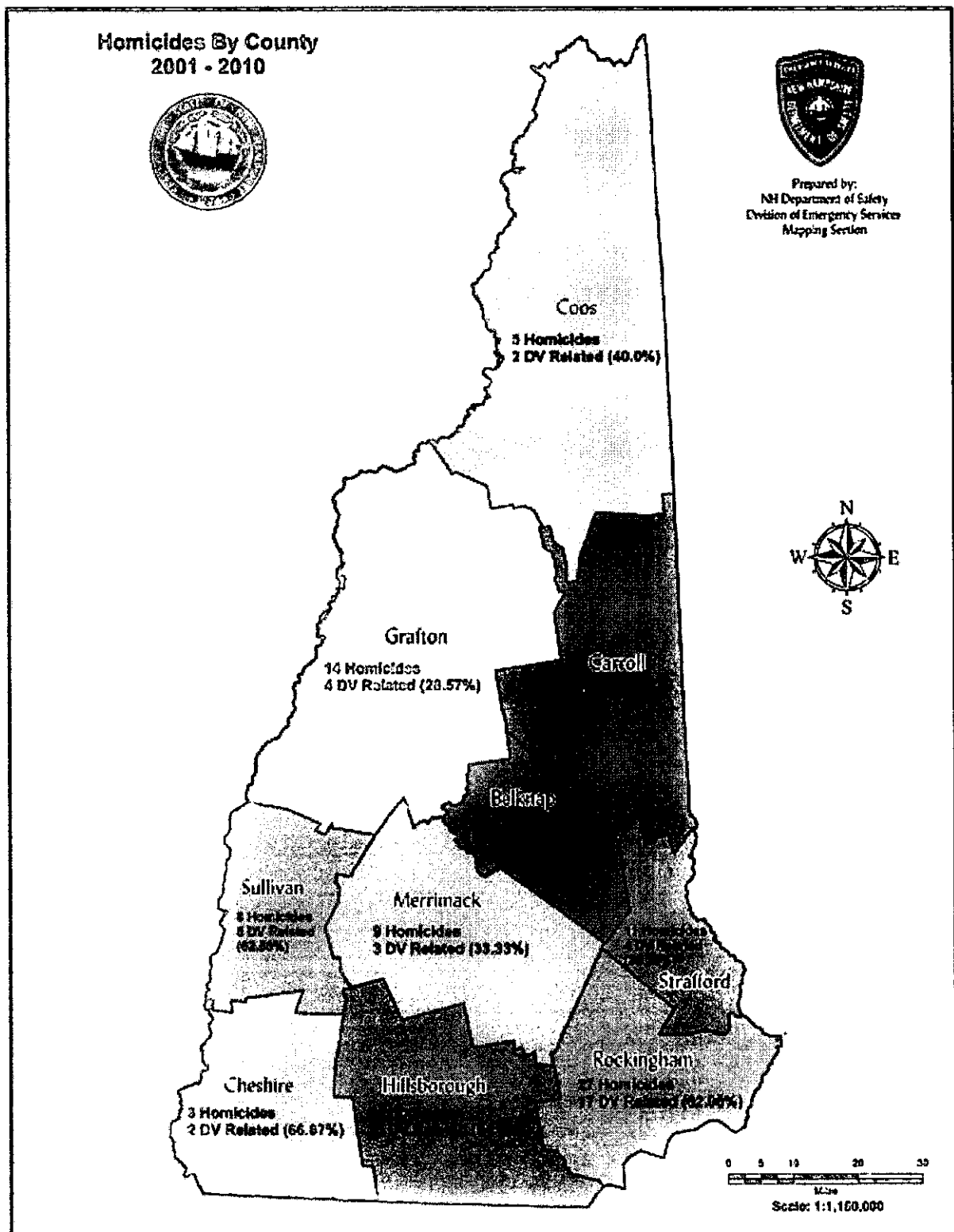


Figure 6

**Total Homicides  
By County per 100K Population**

<u>County</u>	<u>Rate per 100K</u>	<u>Homicides</u>
Coos	1.87	6
Sullivan	1.87	8
Carroll	1.68	8
Grafton	1.62	14
Hillsborough	1.59	64
Belknap	1.46	9
Strafford	.90	11
Merrimack	.60	9
Cheshire	.38	3
Total	1.29	159

**Figure 7**

To more accurately reflect the areas of the state where homicides occur most frequently per capita, **Figure 7** reflects the total number of homicides broken down by the number of homicides per 100K population,

**Coos and Sullivan Counties** had the highest rate of homicides, each with 1.87 per 100K, followed by **Carroll County** with 1.68. At the other end of the spectrum was **Cheshire County**, which had the lowest rate of homicides per capita with .38.

**It should be noted that the counties with the highest per capita homicide rate are three of the most rural counties in the state.**

According to the *CP Press Annual State Crime Rankings*, New Hampshire has been rated as one of the safest states in the nation, with an average of 1.29 homicides per 100K population.

**Domestic Violence Homicides  
By County per 100K Population**

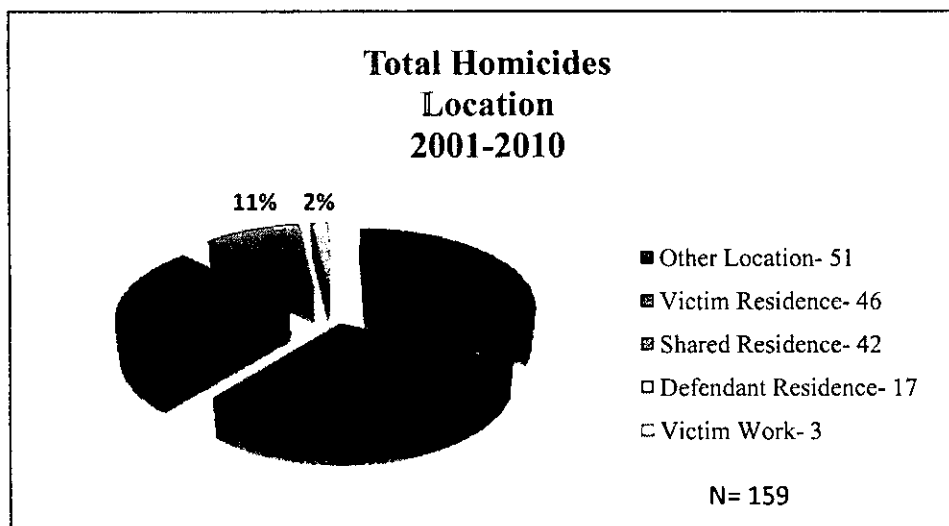
<u>County</u>	<u>Rate per 100K</u>	<u>Homicides</u>
Sullivan	1.17	5
Belknap	0.98	6
Hillsborough	0.87	35
Coos	0.63	2
Rockingham	0.57	17
Grafton	0.47	4
Strafford	0.33	4
Cheshire	0.26	2
Carroll	0.21	1
Merrimack	0.20	3
<b>Total</b>	<b>0.57</b>	<b>79</b>

**Figure 8**

**Figure 8** reflects that of the 79 domestic violence homicides, **Sullivan County** had the highest rate of domestic violence homicides at 1.17 per 100K, followed by **Belknap County** at .98.

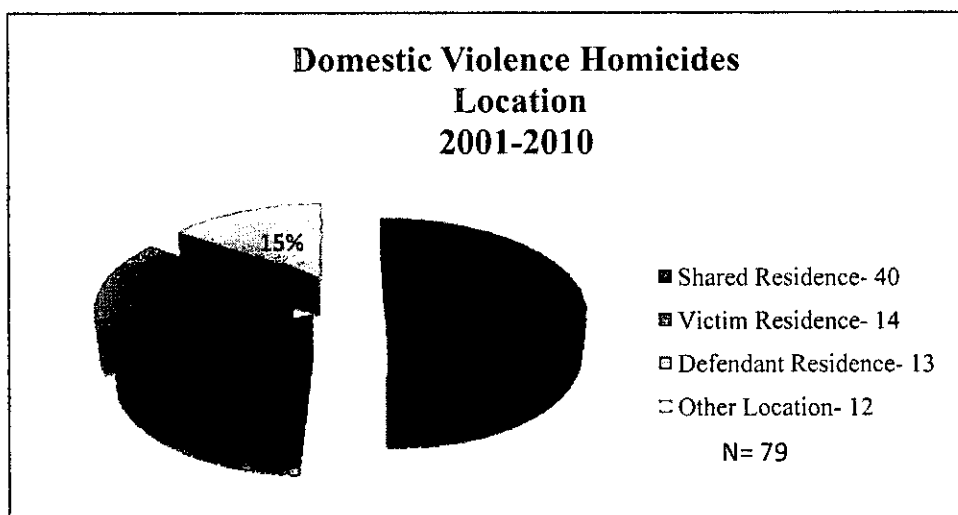
**As with the total homicides, the highest rate of domestic violence homicide occurred in two of the most rural counties.**

On average there were .57 domestic violence homicides per 100K population.



**Figure 9**

**Figure 9** reflects that of the **159** homicides, **32%** or **51** occurred at a location **other** than at a residence or workplace, **29%** or **46** occurred at the **victim's residence**, **26%** or **42** occurred at a **shared residence**, **11%** or **17** occurred at the **perpetrator's residence** and **2%** or **3** occurred at the **victim's workplace**.

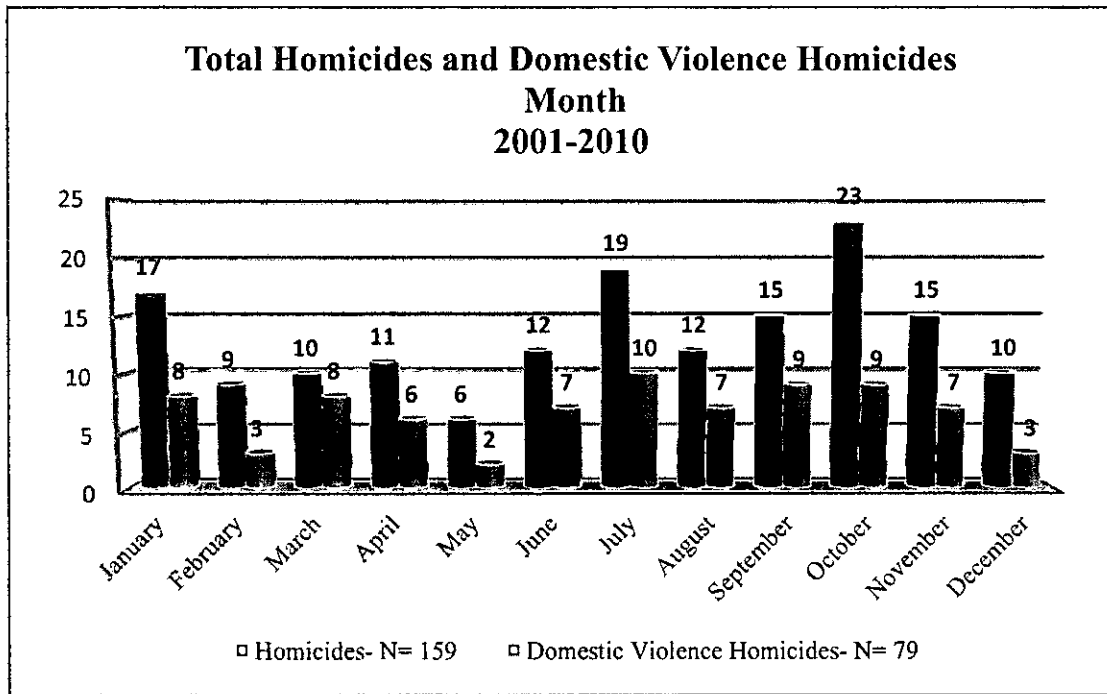


**Figure 10**

**Figure 10** reflects that of the **79** domestic violence homicides **84%** or **67** occurred at a residence and **15%** or **12** occurred at a location other than a residence.

The majority, **51%** or **40**, occurred at a **shared residence**, followed by **18%** or **14** at the **victim's residence** and **16%** or **13** at the **perpetrator's residence**.

## When?

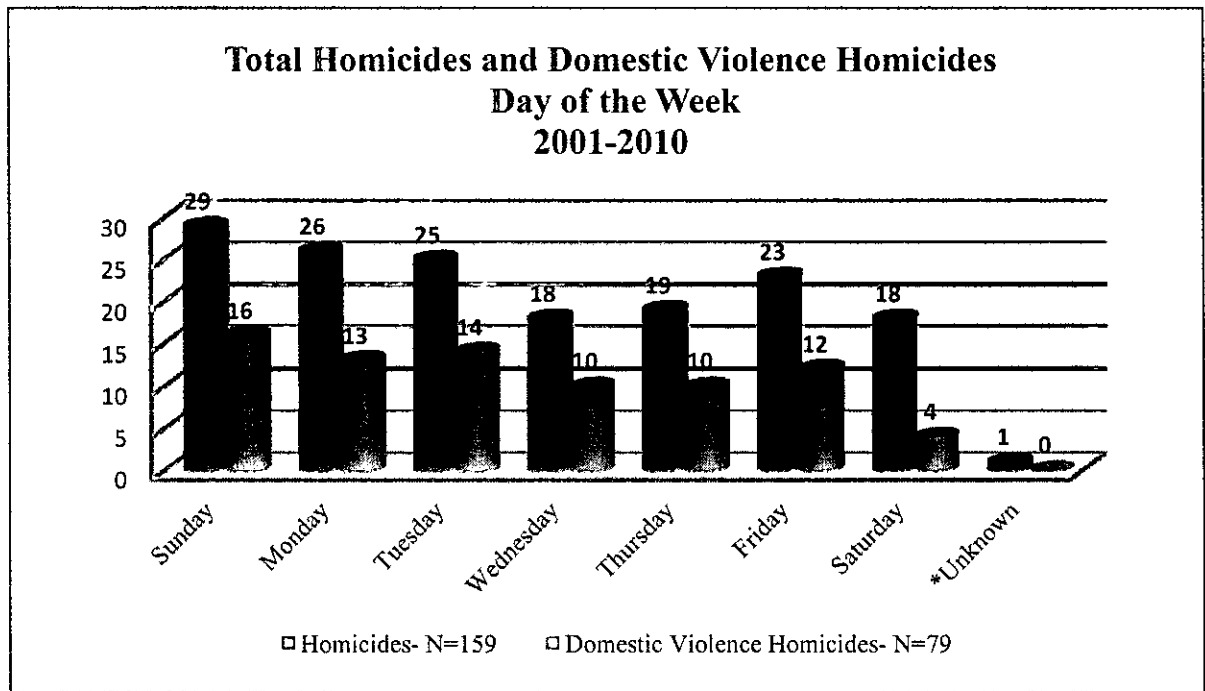


**Figure 11**

**Figure 11** reflects that the greatest number of the 159 homicides occurred in **October** with 14% or 23, followed by **July** with 12% or 19.

The greatest number of the 79 domestic violence homicides occurred in **July** with 13% or 10, followed by **September** and **October** with 12% or 9.

Homicides seem to be evenly distributed throughout the months and there does not appear to be a pattern or trend that can be discerned from this information.



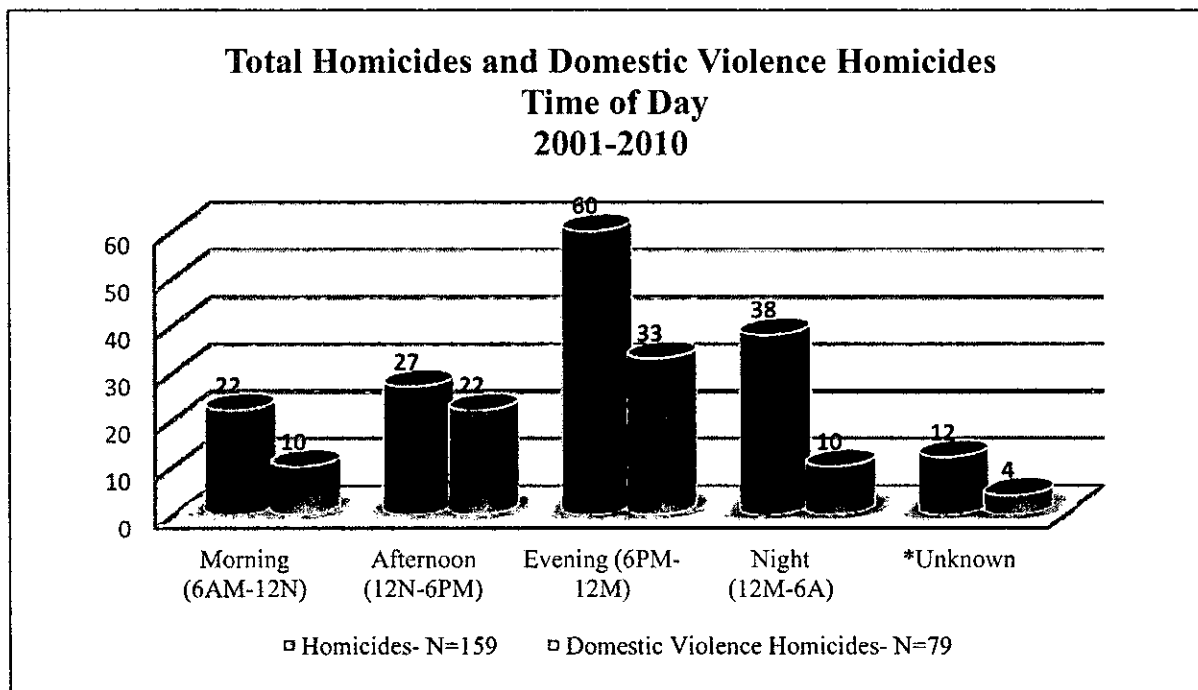
**Figure 12**

**Figure 12** reflects that the greatest number of the 159 homicides occurred on **Sunday** with 18% or 29, followed by **Monday** with 16% or 26.

The greatest number of the 79 domestic violence homicides also occurred on **Sunday** with 20% or 16, followed by **Tuesday** with 18% or 14.

In regards to the 159 homicides, the data reflects that the homicides are evenly distributed between days.

When looking at the 79 domestic violence homicides the homicides are evenly also distributed, except for **Saturday** when there are very few occurrences of domestic violence homicides.



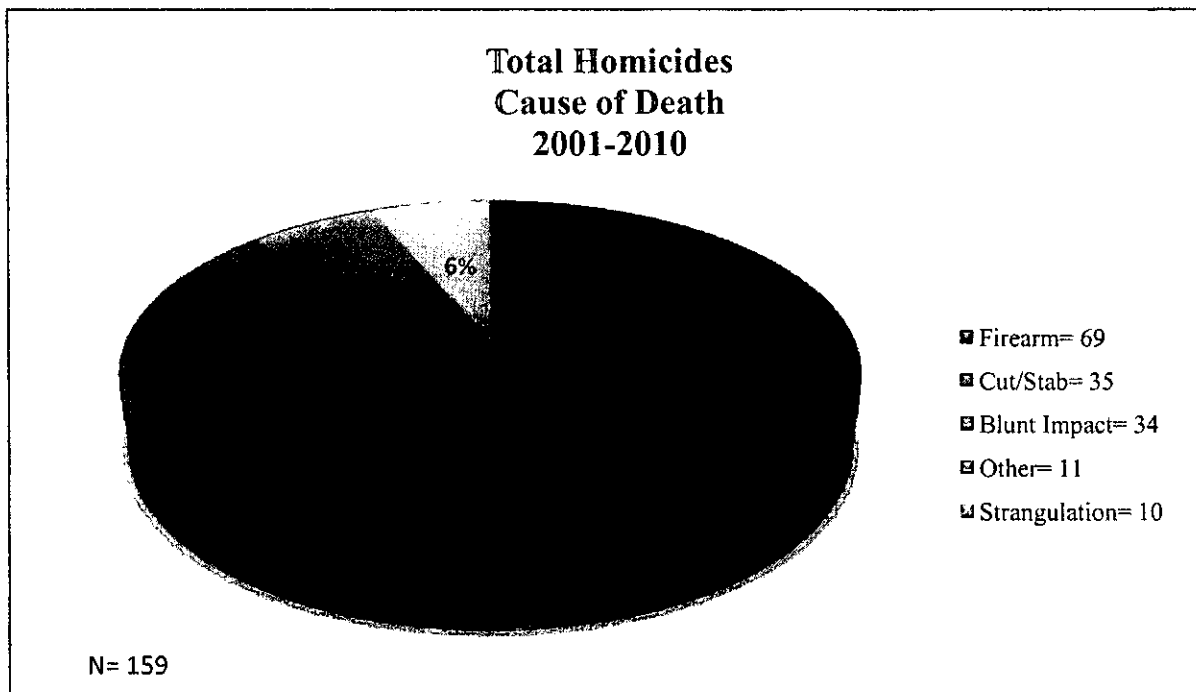
**Figure 13**

**Figure 13** reflects that the highest number of both total homicides and domestic violence homicides occurred between **6 pm and 12 midnight** with **38%** or **60** of the total homicides and **42%** or **33** of the domestic violence homicides.

The data shows the next most dangerous time of day in total homicides was between **12 midnight to 6 am** with **24%** or **38**, while in domestic violence cases it was between **12 noon to 6 pm** with **29%** or **22**.

The **8%** or **12** of unknown cases reflect the cases where no time of death has been determined.

## HOW?

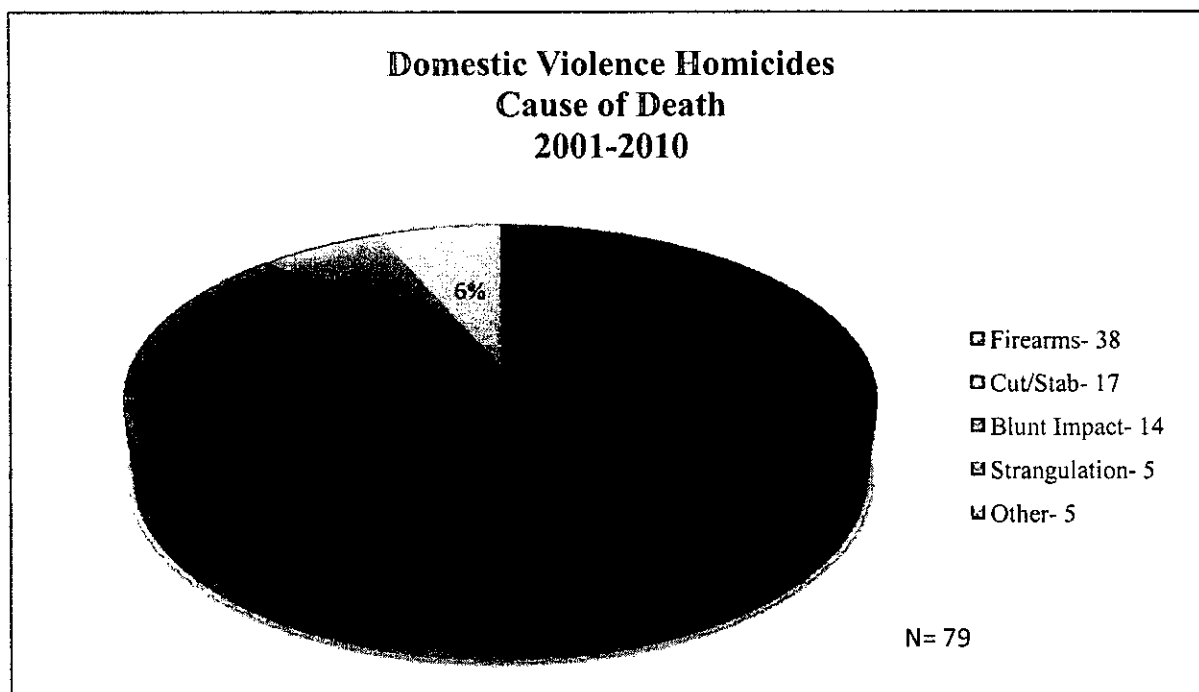


**Figure 14**

**Figure 14** reflects that of the **159** homicides, the majority, **44%** or **69**, were a result of a **firearm\***, followed by **cutting or stabbing** with **22%** or **35**, **blunt force impact** with **21%** or **34** and **strangulation** with **6%** or **10**.

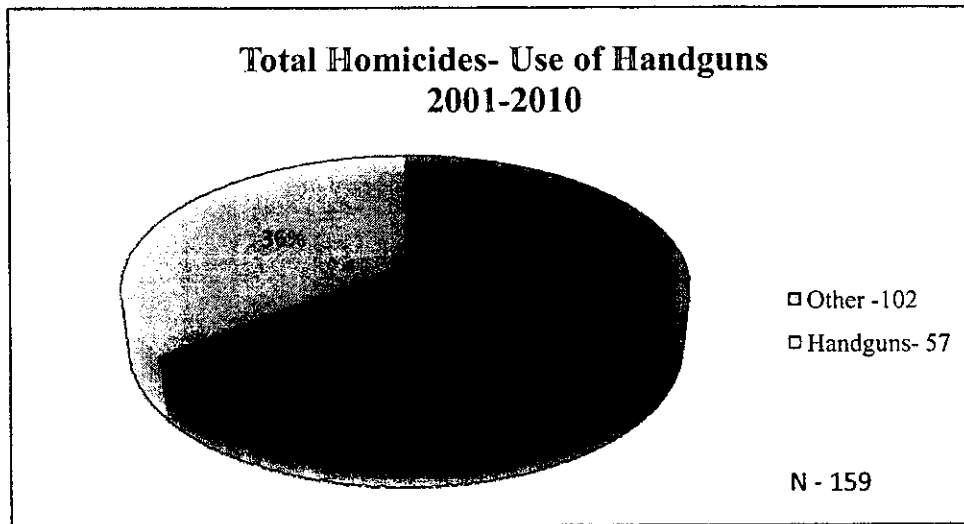
*\*A firearm for the purpose of this report is defined as either a hand gun or a long gun.*





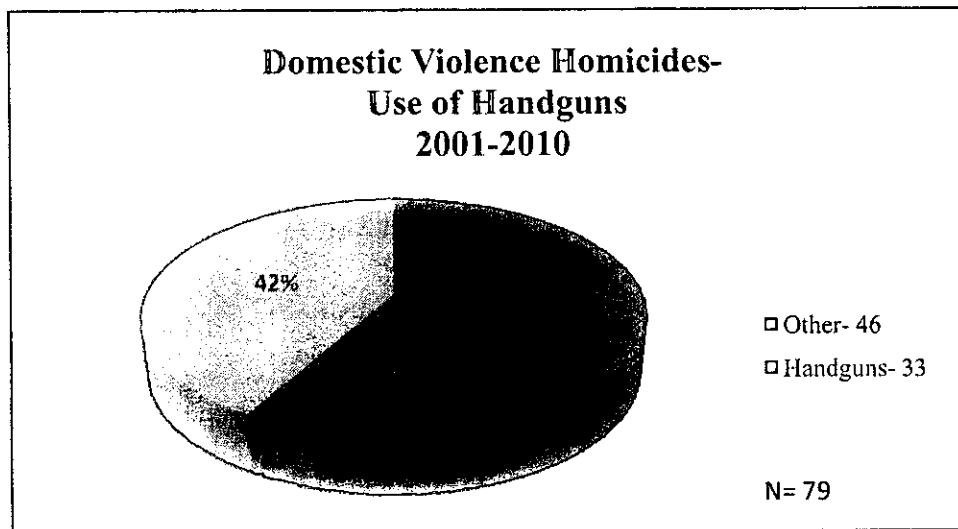
**Figure 15**

**Figure 15** reflects that of the 79 domestic violence homicides, the majority, were the result of a firearm with 48% or 38, followed by cutting or stabbing with 22% or 17, blunt force impact with 18% or 14 and strangulation with 6% or 5.



**Figure 16**

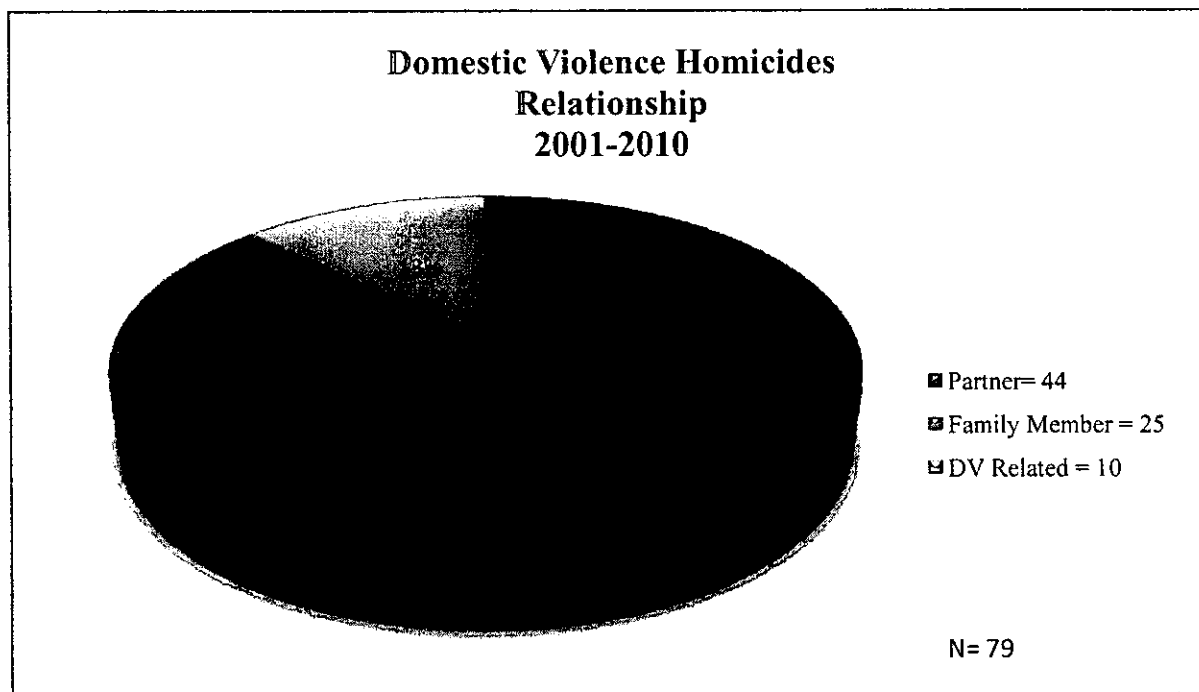
**Figure 16** reflects that of the 159 homicides, 36% or 57 were the result of a **handgun**.



**Figure 17**

**Figure 17** reflects that of the 79 domestic violence homicides, 42% or 33 were the result of a **handgun**.

## Who?

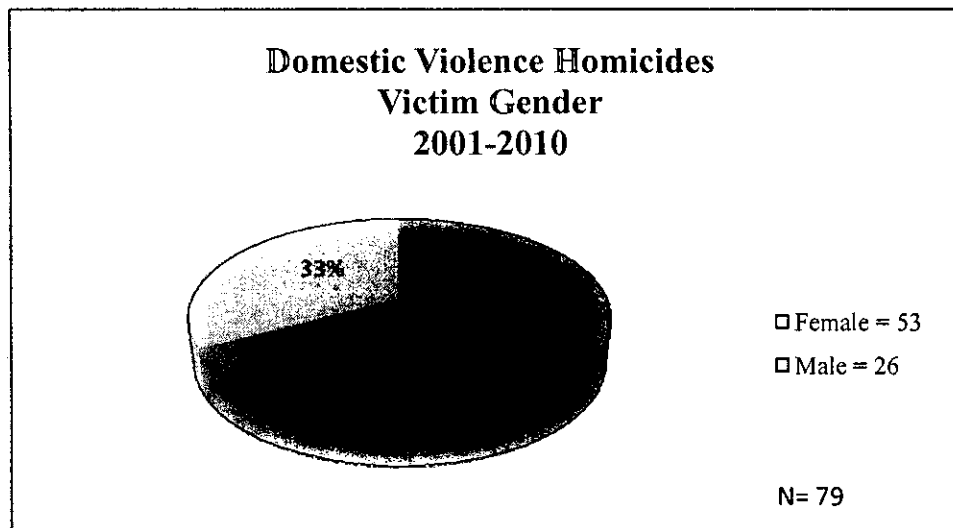


**Figure 18**

**Figure 18** reflects that 56% or 44 of the 79 domestic violence homicides involved **partners**, 31% or 25 involved **family members** and 13% or 10 were **domestic violence related**.

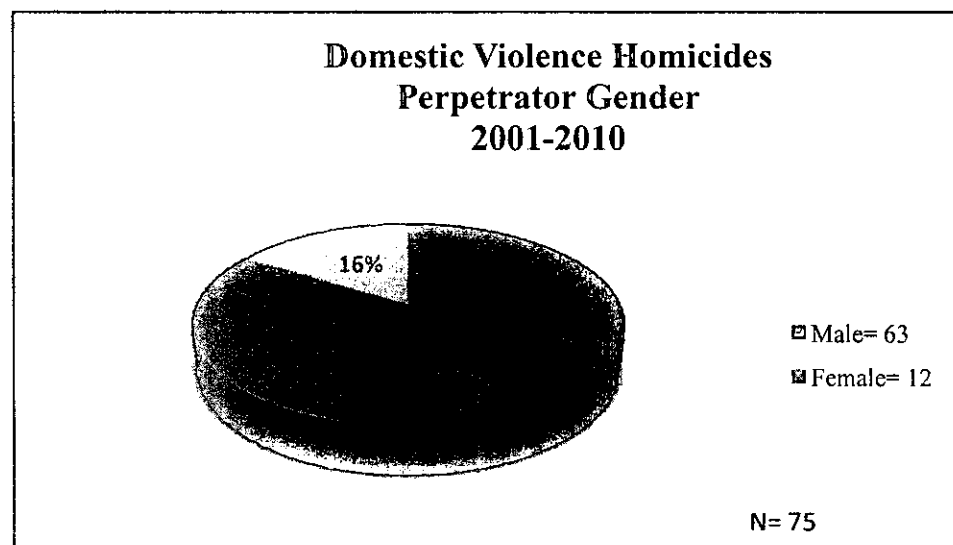
**Domestic violence homicide relationships are defined as follows:**

- **Partner** homicides are defined as those where the victim and perpetrator have or have had an intimate relationship, spouse or former spouse, or are unmarried persons who have or are cohabitating.
- **Family member** homicides are those where the victim and perpetrator are NOT intimate partners but are family members. (e.g., when a child kills a parent.)
- **Domestic violence related** homicides are those where the victim and perpetrator are neither intimate partners nor family members, but the homicide has some relationship to domestic violence. (E.g., estranged husband kills wife's current intimate partner.)\*



**Figure 19**

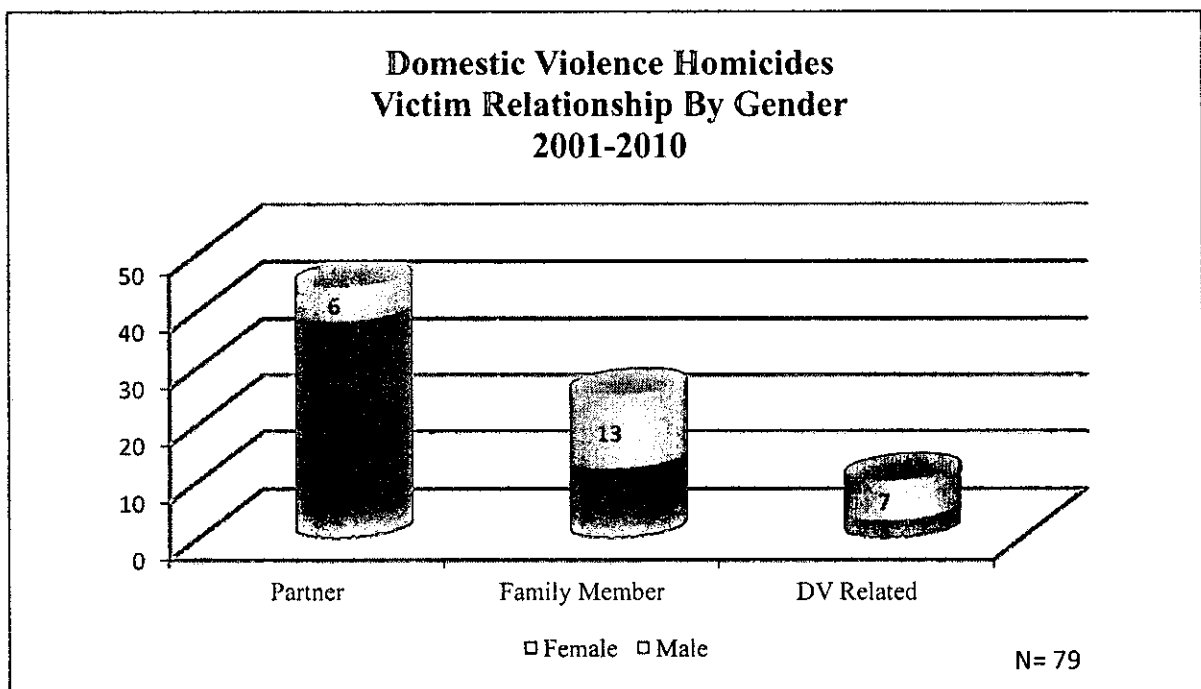
**Figure 19** reflects that of the 79 domestic violence homicides, 67% or 53 of the victims were female and 33% or 26 were male.



**Figure 20**

**Figure 20** reflects that of the 75 perpetrators, the majority, 84% or 63 were male, while 16% or 12 of the perpetrators were female.

These numbers are consistent with national data regarding the gender breakdown for perpetrators of domestic violence homicide.

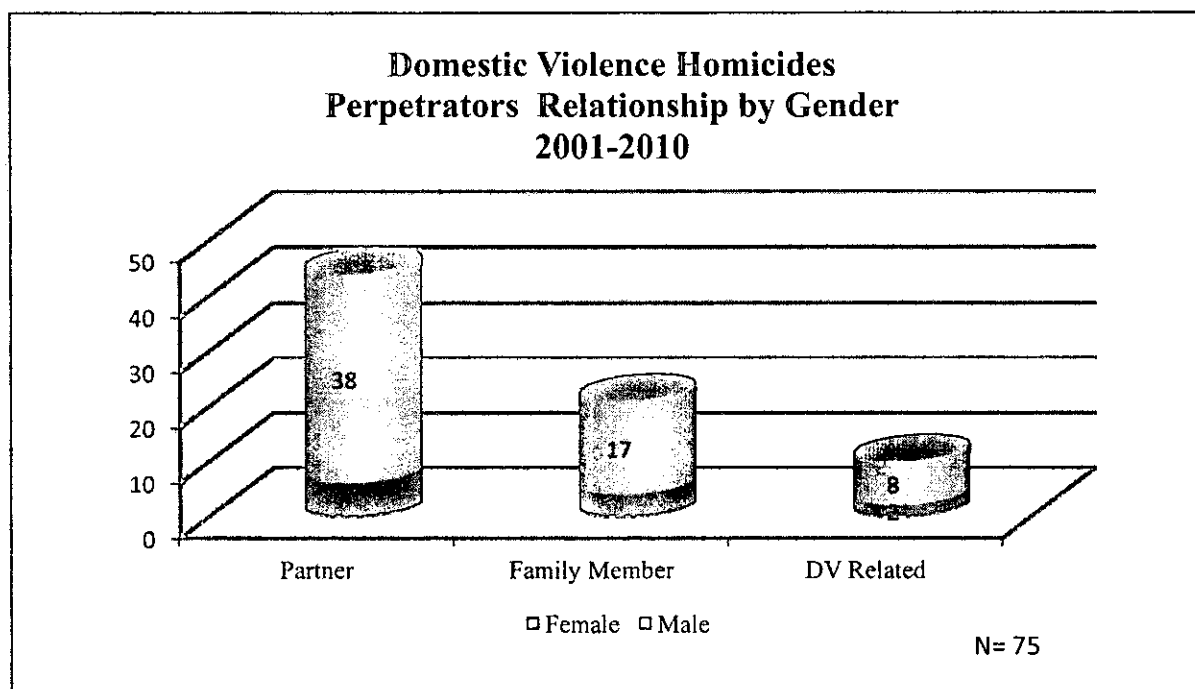


**Figure 21**

**Figure 21** reflects that of the **44** of the **partner** domestic violence homicides, the majority, **86%** or **38 victims** were **female** and **14%** or **6 victims** were **male**. .

Of the **25 family member** homicides, **52%** or **13** were **male** with and **48%** or **12** were **female**.

Of the **10 domestic violence related** homicides, **70%** or **7 victims** were **male** and **30%** or **3 victims** were **female**.



**Figure 22**

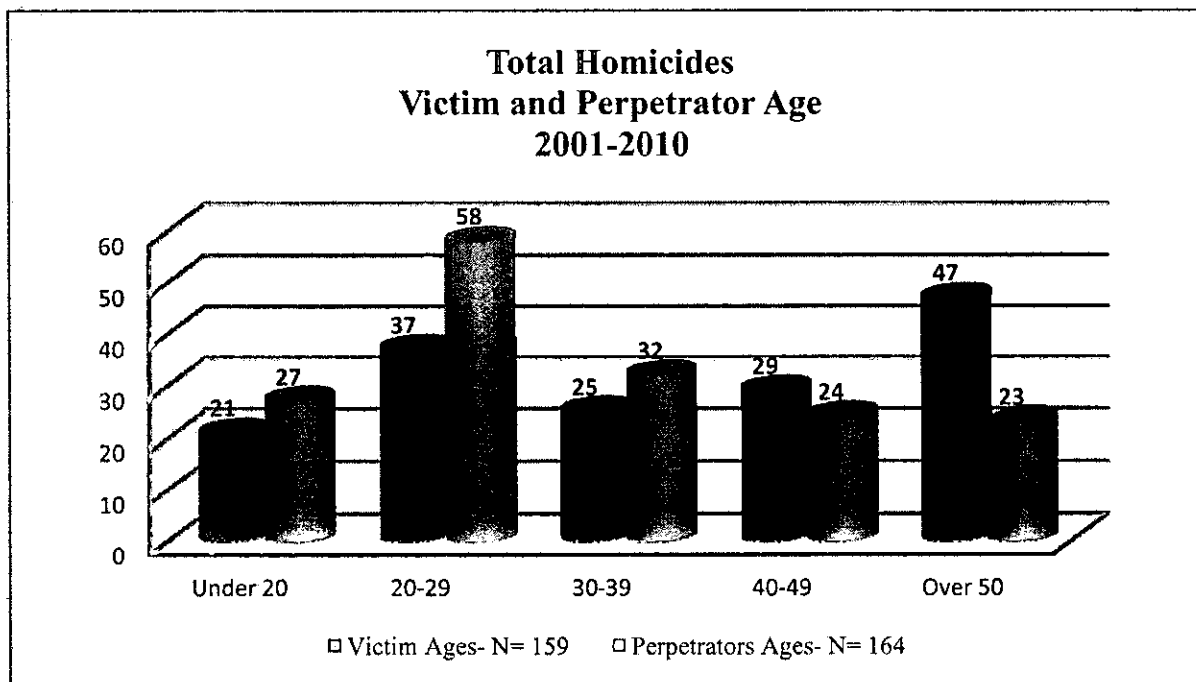
**Figure 22** reflects that of the **75** domestic violence homicide perpetrators, **84%** or **63** were **males** and **16%** or **12** were **female**.

Of the **44 partner** domestic violence homicides, **86%** or **38** perpetrators were **male** and **14%** or **6** were **female**.

Of the **21 family member** domestic violence homicides, **81%** or **17** perpetrators were **male** and **19%** or **4** were **female**.

Of the **10 domestic violence related** homicides, **80%** or **8** perpetrators were **male** and **20%** or **2** were **female**.

In all of the domestic violence homicides, the majority of the perpetrators were **male**.



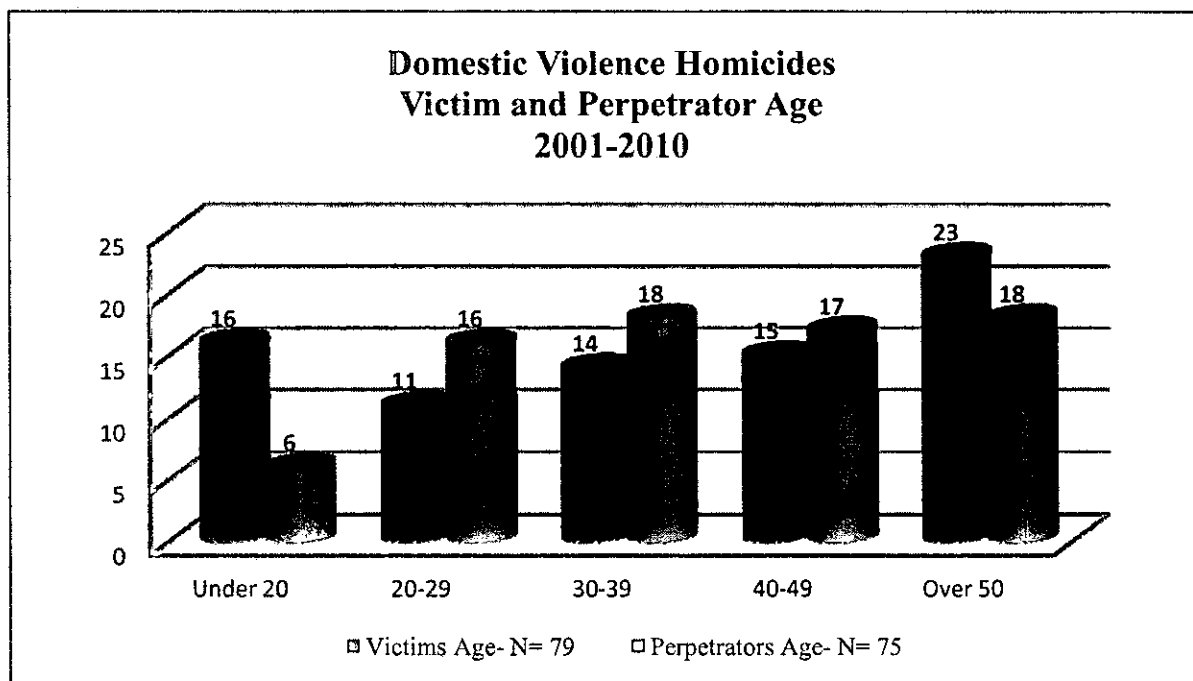
**Figure 23**

**Figure 23** reflects that of the **159** homicide victims, **30%** or **47** were **over 50** years of age followed by **23%** or **37** who were **between 20 and 29**.

Of the **159** total victims the **average age** was **39**, with the youngest being **3 months old** and the oldest being **92**.

Of the **164** total homicide perpetrators, **35%** or **58** were **between 20 and 29** years of age followed by **20%** or **32** who were **between 30 and 39**.

Of the **164** total **perpetrators** the **average age** was approximately **33**, with the youngest being **16** and the oldest being **85**.



**Figure 24**

**Figure 24** reflects that of the 79 domestic violence homicide victims, 29% or 23 were over 50 years of age followed by 20% or 16 who were under 20.

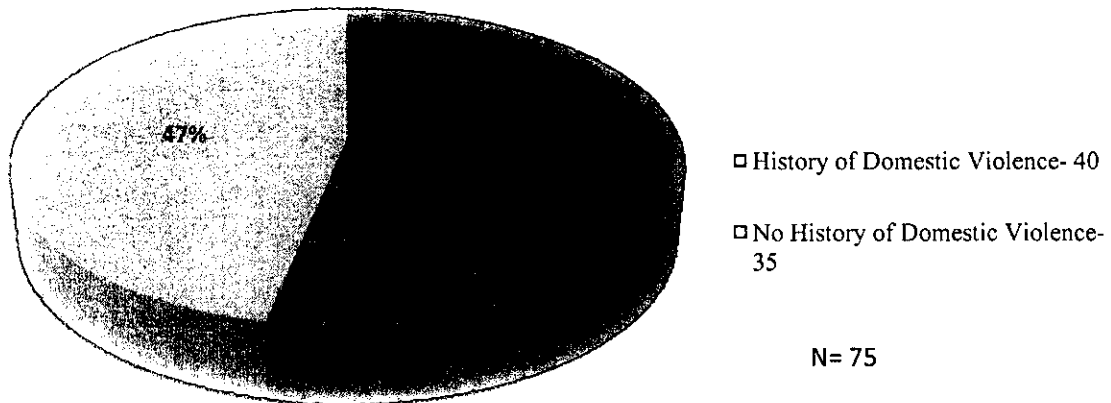
Of the 79 domestic violence homicide victims the average age was 38, with the youngest being 3 months old and the oldest being 92.

Of the 75 domestic violence homicide perpetrators, 24% or 18 were between 30 and 39 and 24% or 18 were also over 50, followed by 21% or 16 who were under 20 and also 21% or 16 who were between 30 and 39.

Of the 75 domestic violence perpetrators the average age was 41, with the youngest being 16 years old and the oldest being 85.



**Domestic Violence Homicides  
Perpetrators History of Domestic Violence  
2001-2010**



**Figure 25**

**Figure 25** reflects that of the 75 domestic violence homicide perpetrators, 53% or 40 had a known history of domestic violence as a perpetrator.

## Domestic Violence Homicides Protective Orders and Crisis Center Services

79	Domestic Violence Homicides
5	Victims accessed Crisis Center Services
3	Protective Orders in Place at the Time of Homicide
2	Victims had a Protective Order <b>and</b> Accessed Crisis Center Services

**Figure 26**

**Figure 26** reflects that of the 79 victims of domestic violence homicides, only 6% or 5 of the victims sought crisis center services. Of the 79 victims of domestic violence homicides only 4% or 3 of the victims had **protective orders** in effect at the time of the homicide. Of the 3 victims that had a protective order in effect, 67% or 2 sought services from a **crisis center**. This is consistent with national research. (See below)

### New Hampshire Lethality Assessment Program

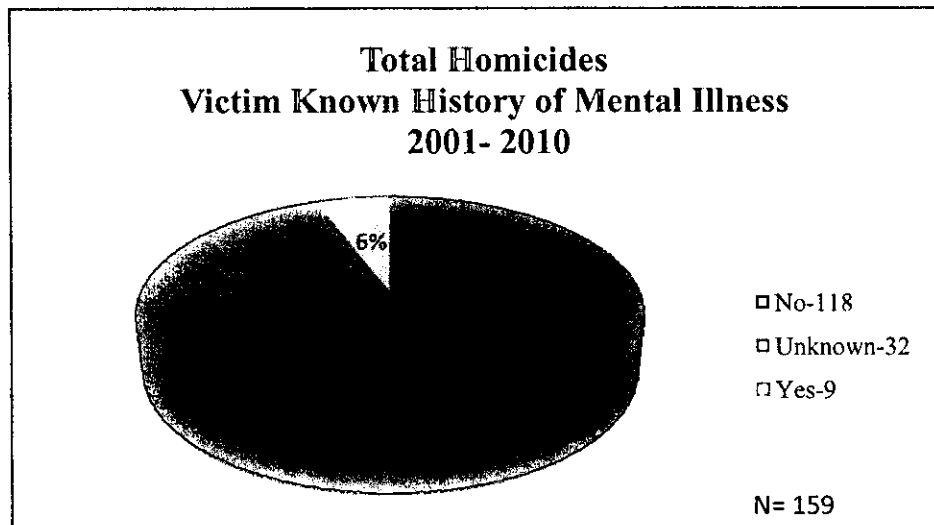
The New Hampshire Attorney General's Office has adopted the research/evidence based\* Maryland **Lethality Assessment Program (LAP)** as a model response for domestic violence cases.

The LAP is an 11 question lethality screening tool and an accompanying response and referral protocol designed to identify high risk domestic violence victims who are at the greatest risk of being seriously injured or killed and to immediately connect them with crisis center services for safety planning, information and resources.

The goal of LAP is to prevent domestic violence homicides, serious injury and re-assault by encouraging more victims to use the services of domestic violence crisis centers.

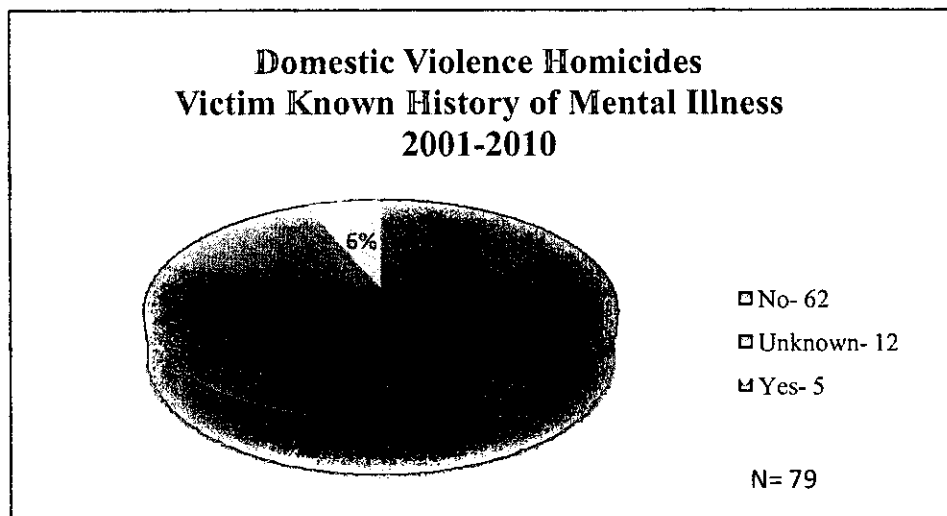
Studies have shown that the support services of crisis centers can save lives and reduce-re-assaults, yet these programs continue to be under-utilized. There is a **60%** reduction in risk of severe assault when victims utilize domestic violence services. Studies show that abused women who used domestic violence services are much less likely to be the victim of murder or attempted murder. A comprehensive, nationwide, domestic violence study found that **only 4%** of actual or attempted intimate partner homicide victims utilized domestic violence services

*\*Research of Dr. Jacquelyn Campbell, Johns Hopkins University*



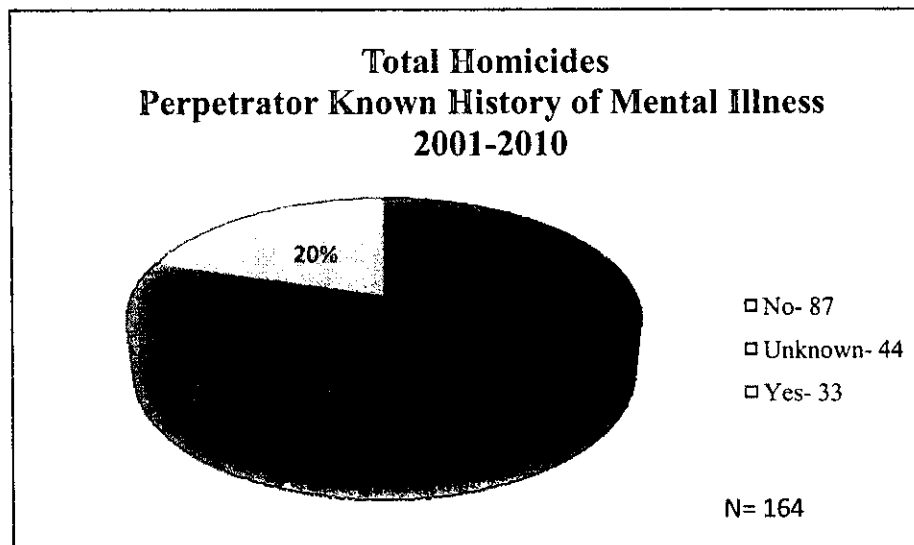
**Figure 27**

**Figure 27** reflects that of the 159 total homicides victims, the majority, 74% or 118 did not have a history of mental illness, 6% or 9 had a known history of mental illness and 20% or 32 were unknown.



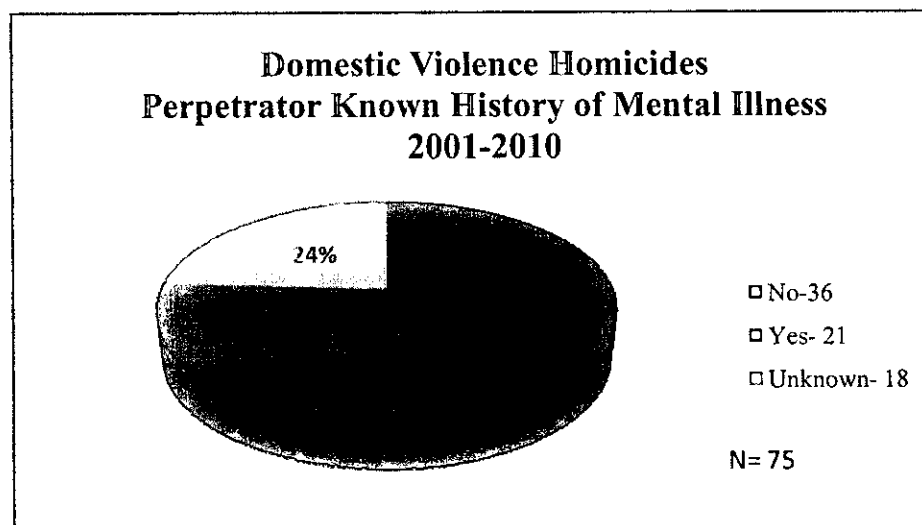
**Figure 28**

**Figure 28** reflects that similar to the total 159 homicides, the majority, 79% or 62 of the victims of domestic violence homicides did not have a history of mental illness, 6% or 5 victims had a known history of mental illness and 15% or 12 were unknown.



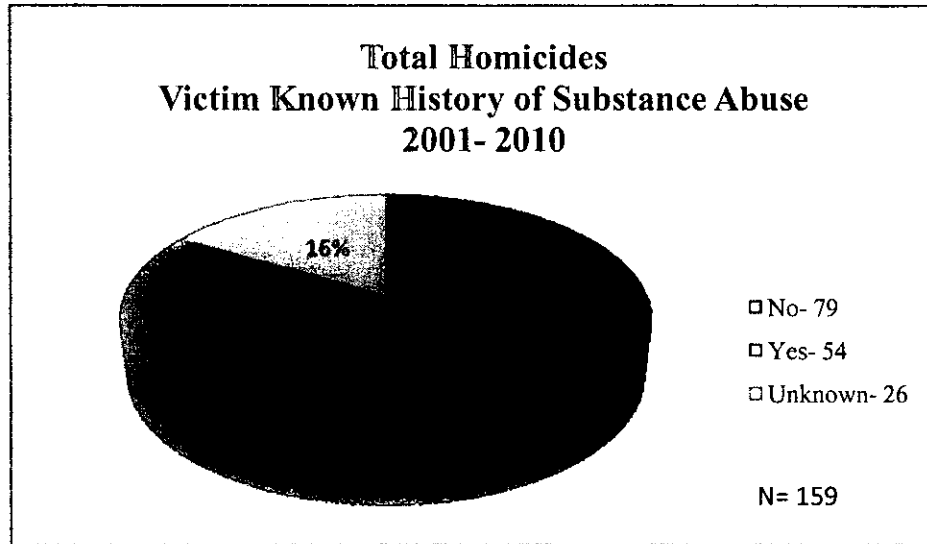
**Figure 29**

**Figure 29** reflects that of the total 164 homicide perpetrators, the majority, 53% or 87 did not have a history of mental illness, 20% or 33 had a known history of mental illness and 27% or 44 were unknown.



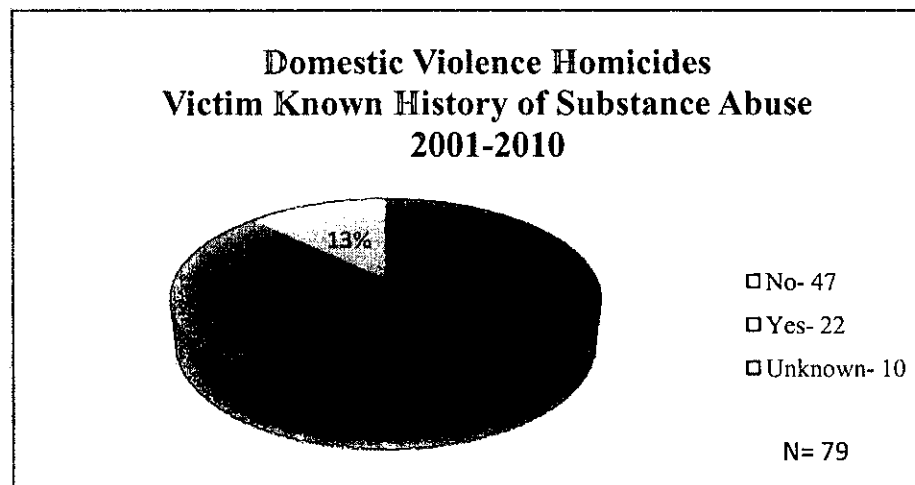
**Figure 30**

**Figure 30** reflects that of the 75 perpetrators of domestic violence homicides, the majority, 48% or 36 did not have a history of mental illness, 28% or 21 had a known history of mental illness and 24% or 18% were unknown.



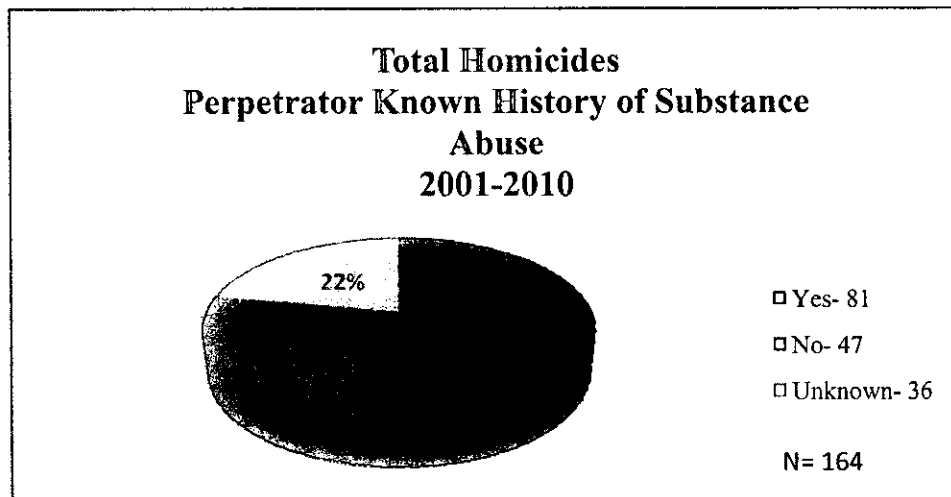
**Figure 31**

**Figure 31** reflects that of the 159 total homicide victims, the majority, 50% or 79 did not have a known history of substance abuse, 34% or 54 had a known history of substance abuse and 16% or 26 were unknown.



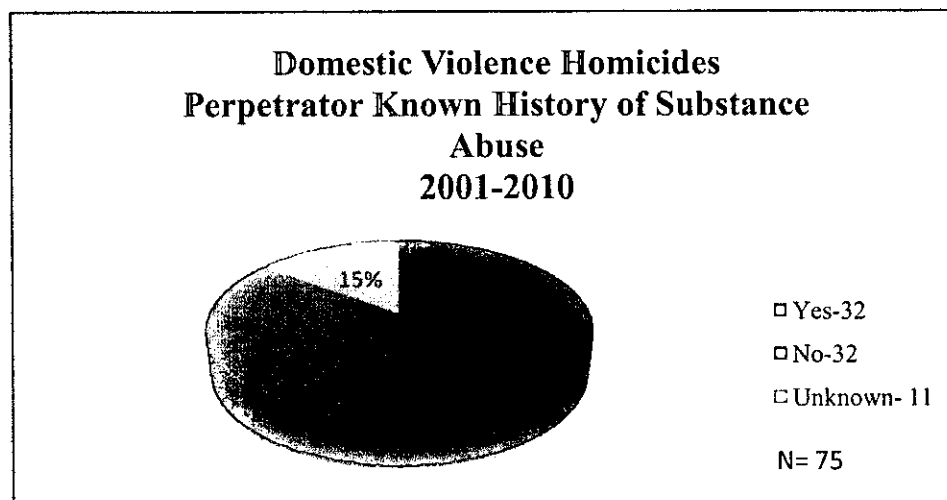
**Figure 32**

**Figure 32** reflects that of the 79 domestic violence homicide victims, 59% or 47 had no history of substance abuse, 28% or 22 victims had a known history of substance abuse and 13% or 10 victims had an unknown history.



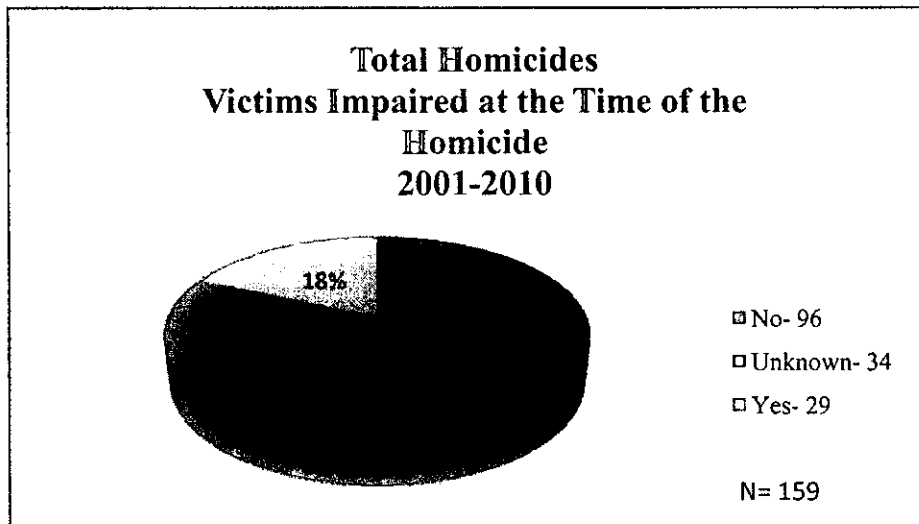
**Figure 33**

**Figure 33** of the 164 homicide perpetrators, the majority, 49% or 81 had a known history of substance abuse, 29% or 47 did not have a known history of substance abuse and 22% or 36 were unknown.



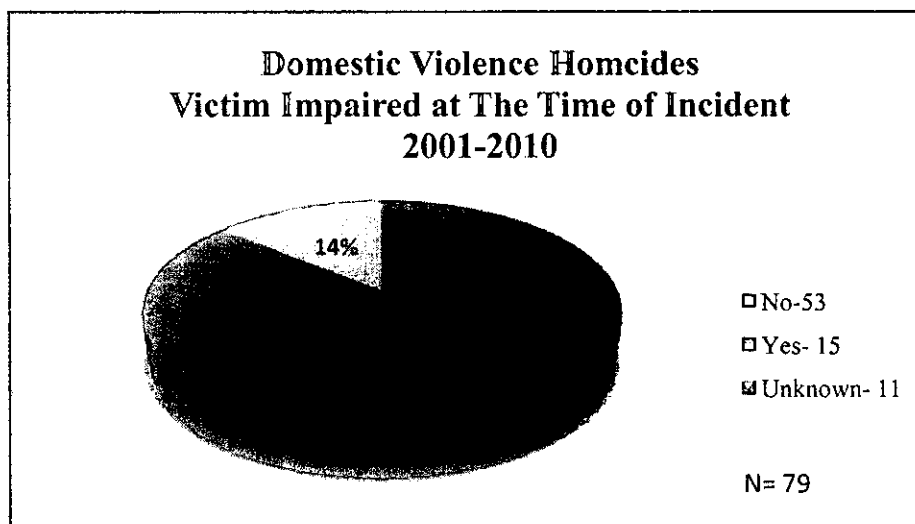
**Figure 34**

**Figure 34** reflects that of the 75 perpetrators of domestic violence homicides, 42% or 32 had a known history of substance abuse, 43% or 32 had no known history of substance abuse and 15% or 11 were unknown.



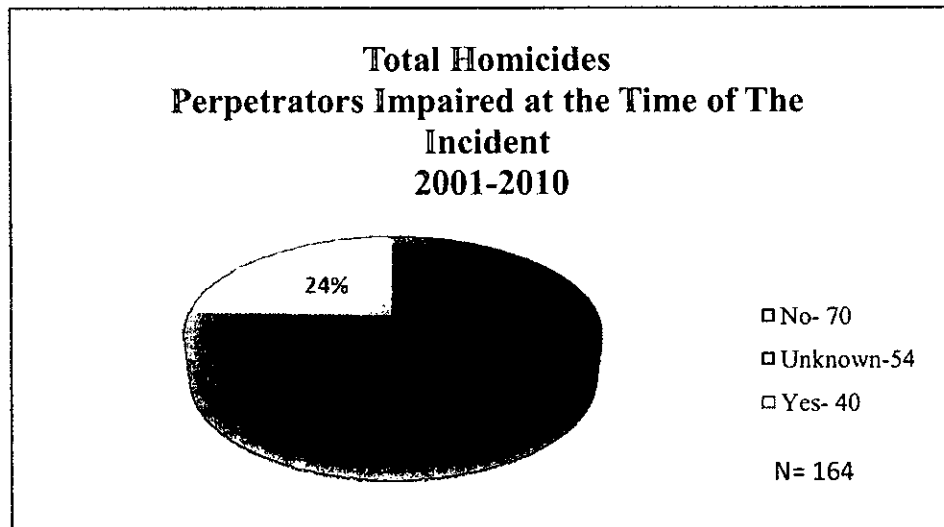
**Figure 35**

**Figure 35** reflects that of the **159** total homicide victims, the majority, **60%** or **96** were not impaired at the time of the homicide, **18%** or **29** were known to be impaired and **21%** or **34** were unknown.



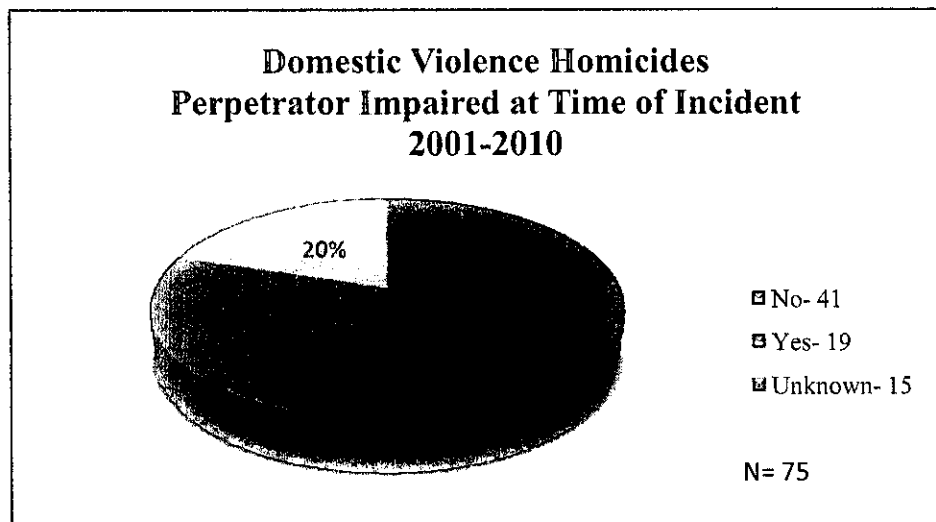
**Figure 36**

**Figure 36** reflects that of the **79** victims of domestic violence homicide, the majority, **67%** or **53** were not impaired at the time of the homicide, **19%** or **15** were impaired and **14%** or **11** were unknown.



**Figure 37**

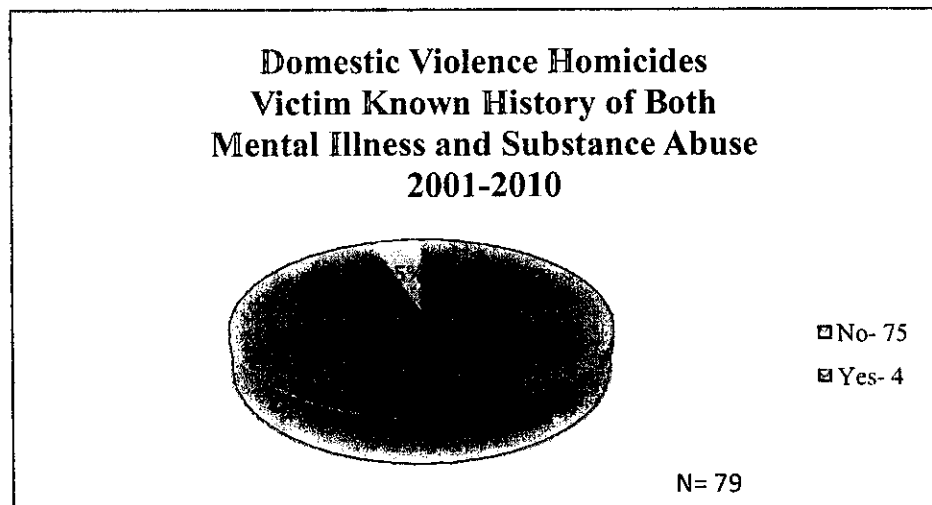
**Figure 37** reflects that of the **164** total perpetrators, the majority, **43%** or **70** were not impaired at the time of the homicide, **24%** or **40** were impaired and **33%** or **54** were unknown.



**Figure 38**

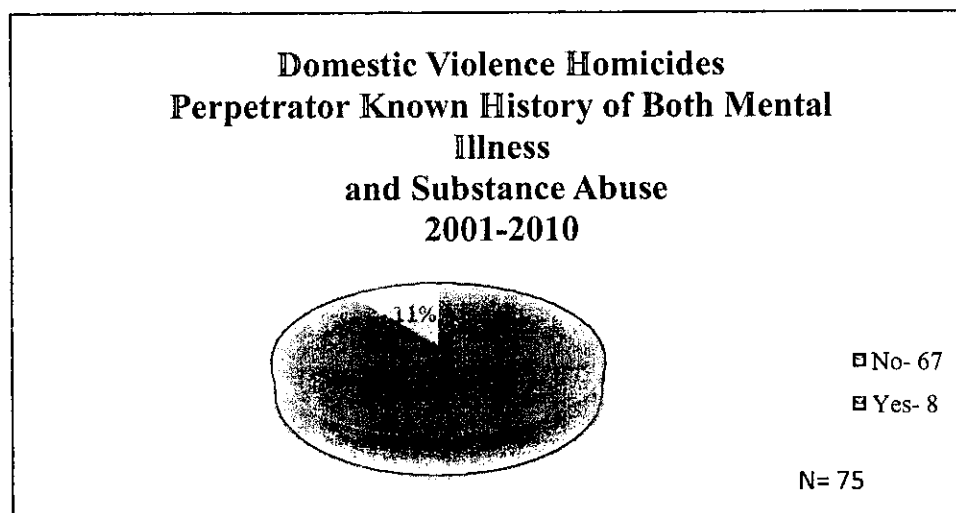
**Figure 38** reflects that of the **75** perpetrators of domestic violence homicides, the majority, **55%** or **41** were not impaired at the time of the homicide, **25%** or **19** were impaired and **20%** or **15** were unknown.





**Figure 39**

**Figure 39** reflects that of the 79 victims of domestic violence homicides, the majority, 95% or 75 did not have a known history of **both** mental illness and substance abuse and only 5% or 4 victims had a known history of **both** mental illness and substance abuse.



**Figure 40**

**Figure 40** reflects that of the 75 perpetrators of domestic violence homicides, the majority, 85% or 67 did not have a known history of **both** mental illness and substance abuse and only 11% or 8 had a known history of **both** mental illness and substance abuse.

## **II. 2011 DOMESTIC VIOLENCE HOMICIDES**

In 2011 there were 8 domestic violence homicides, out of a total of 22 homicides. Of the 8 domestic violence homicides, 4 were partner homicides and 4 involved family members. The 8 domestic violence homicides comprised 36% of the total homicides. As compared to the prior calendar year (2010), the total number of homicides increased, but the percentage of domestic violence homicides decreased from 63% to 36%.

### ***AGE OF VICTIM AND PERPETRATOR***

Of the 8 domestic violence homicides, the victims ranged in age from 6 to 91, with an average age of 44. The perpetrators ranged in age from 18 to 60, with an average age of 39.

### ***GENDER OF VICTIM AND PERPETRATOR***

Of the 8 domestic violence victims, 5 were female and 3 were male. Of the 8 domestic violence perpetrators, 2 were female and 6 were male.

### ***COUNTY OF DEATH***

Of the 8 domestic violence homicides, 2 each occurred in Hillsborough County, Rockingham County and Merrimack County and 1 each occurred in Grafton County and Strafford County.

### ***CAUSE OF DEATH***

Of the 8 domestic violence homicides, 4 involved firearms and 1 each involved cutting/stabbing, blunt force impact, suffocation and arson.

### ***PARTNER HOMICIDES***

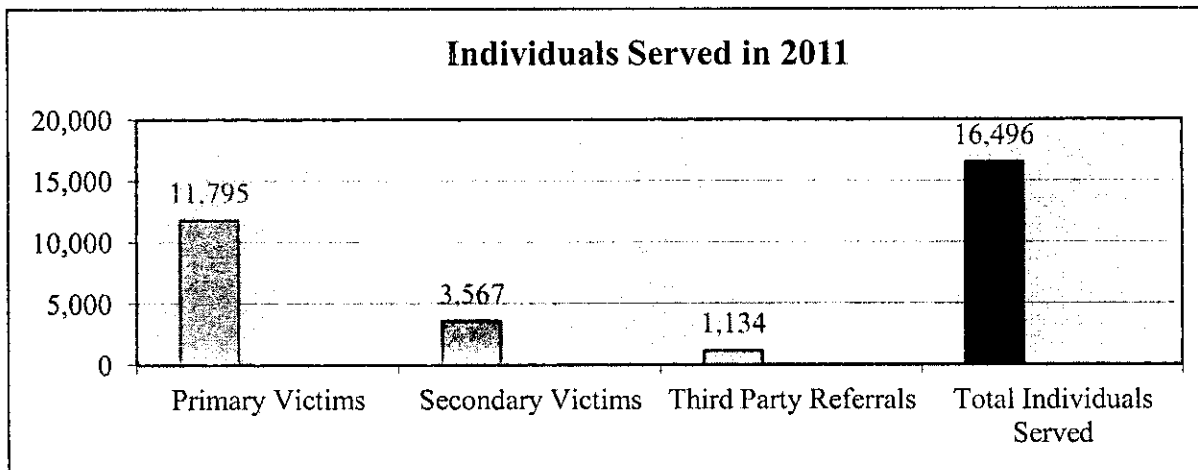
Of the 4 partner homicides, 3 victims were female and 1 was male. 3 perpetrators were male and 1 was female. 3 were in current relationships and one was a former partner. No protective orders were in effect for any of the victims. 3 of the homicides involved firearms and 1 involved arson. 2 of homicides occurred in Merrimack County and 1 each occurred in Grafton County and Strafford County.

**\* The New Hampshire Attorney General's Office responded to a total of 27 homicides in 2011, including 5 officer involved deaths, which were ruled justified.**

#### IV. NEW HAMPSHIRE COALITION AGAINST DOMESTIC AND SEXUAL VIOLENCE 2011 CRISIS CENTER DATA REPORT

The New Hampshire Coalition Against Domestic and Sexual Violence (“Coalition”) and its 14 member programs – crisis centers and emergency shelters throughout the state – provide victims and their children of domestic violence, sexual assault, and stalking with lifesaving intervention, direct services, support, and advocacy. The Coalition’s prevention initiatives, outreach, and education are part of proactive efforts to stop the violence before it occurs. The Coalition partners with law enforcement, prosecution, state and local agencies, and social service and community-based support systems to promote safety and well-being in New Hampshire communities.

The following data was compiled by the Coalition, derived from its victim database.



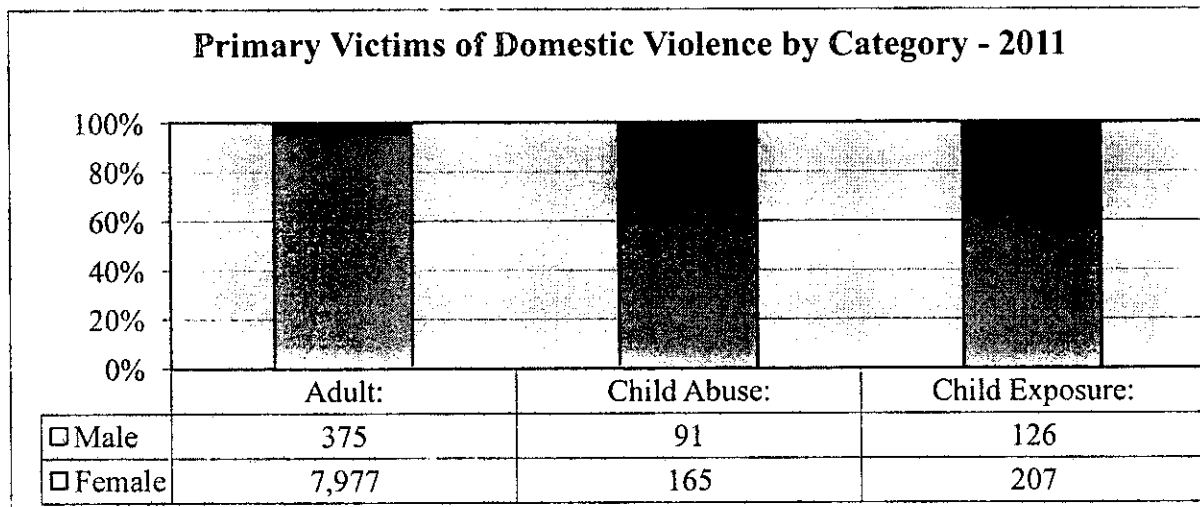
**Figure 1**

In 2011, 16,496 individuals turned to the 14 member programs of the New Hampshire Coalition Against Domestic and Sexual Violence for services, a 3% increase from 2010.

11,795 individuals sought support who were the primary victim domestic violence, sexual assault, and/or stalking.

3,567 individuals known as secondary victims sought support. These individuals did not directly experience the violence however they are supporting a friend or a loved one who has.

1,134 third party referrals were handled. This is typically an outside agency seeking services on behalf of an individual they are working with (e.g. School, law enforcement, DCYF, or a hospital.)



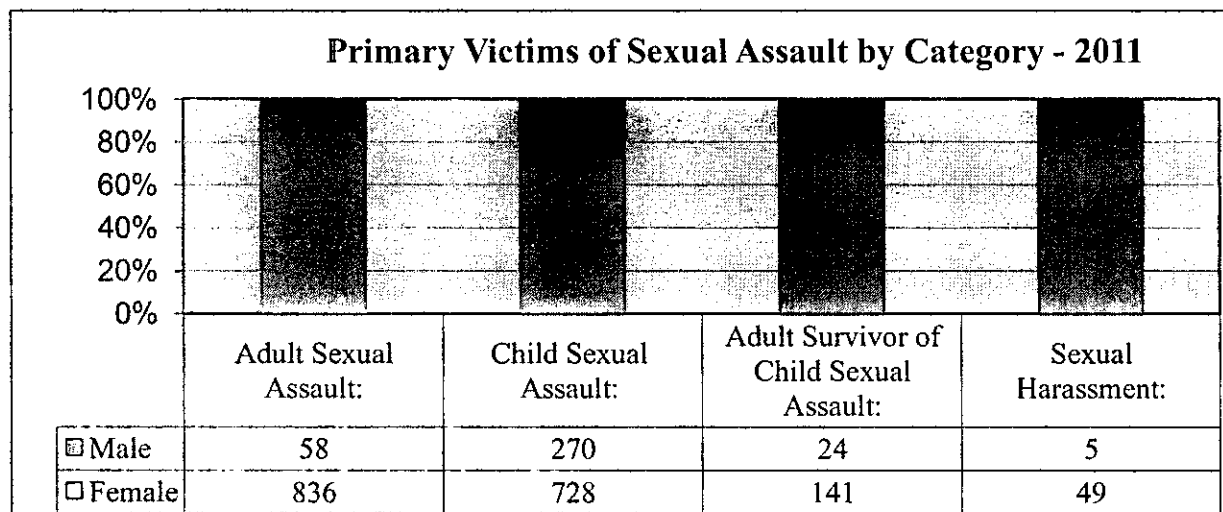
**Figure 2**

In 2011, **8,941** individuals sought services for domestic violence, an increase of **4.3%** over 2010.

Of the **8,352** adults who sought services for domestic violence, **375** were male, and **7,977** were female.

A total of **256** children received support for child abuse and **333** children received support after witnessing domestic violence in their home.

Advocates report that they continue to see an increase in the frequency and the severity of the violence that victims are experiencing.



**Figure 3**

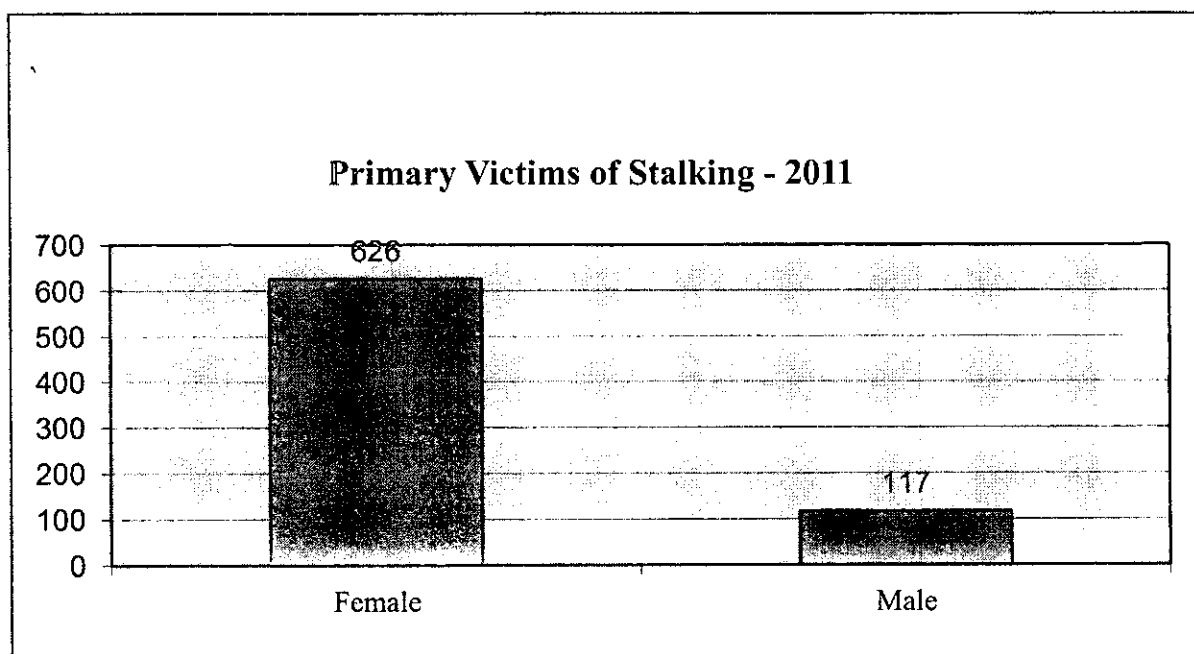
In **2011, 2,111** individuals sought services for sexual assault, a **decrease of 1.2%** over 2010.\*

Of the **894 adults** that sought services for sexual assault **58** were **male**, and **836** were **female**. In addition **165 adults** sought support for victimization they experienced as a child.

A total of **998 children** received support for sexual assault.

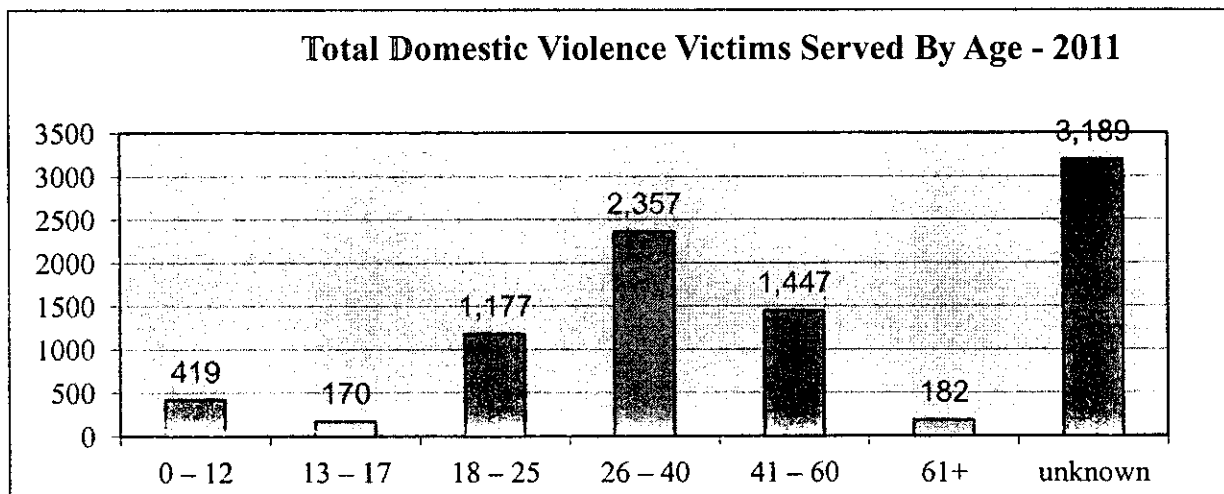
A total of **54** individuals received support for sexual harassment.

*\*Note: The number of adult sexual assault victims and child sexual assault victims did increase slightly, however the number of adults who were seeking support for the victimization they experienced as a child dropped sharply. This is likely due to limited availability of support groups because of staffing cuts.*



**Figure 4**

In **2011**, **743** individuals sought services for stalking, a **6.4% increase** over **2010**. Of those seeking support **117** were **male** and **626** were **female**.



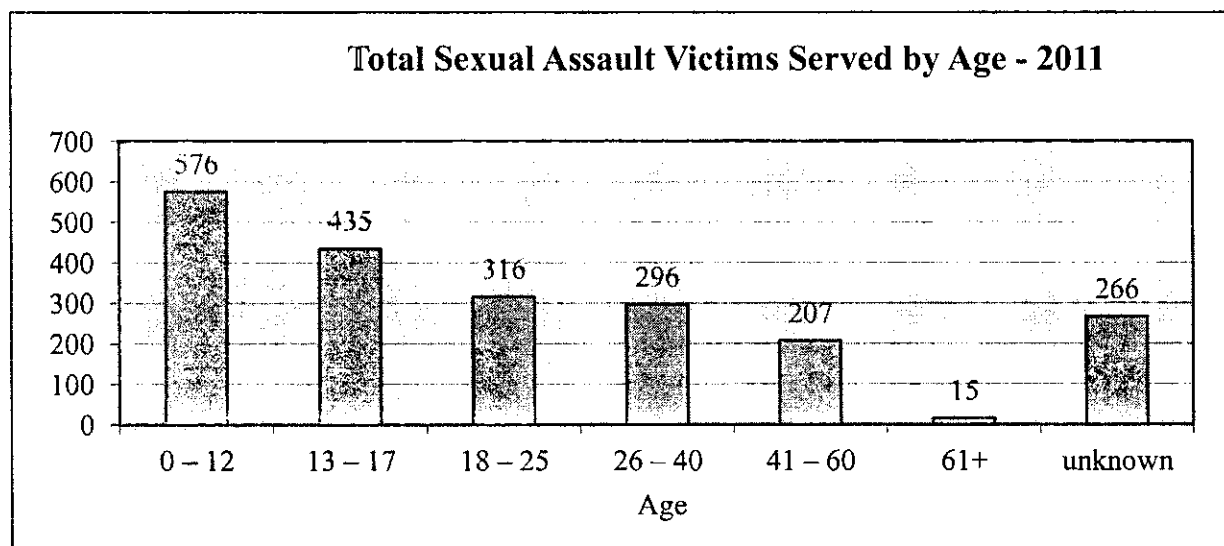
**Figure 5**

In **2011**, **8,942** victims sought services for domestic violence, childhood exposure to domestic violence, or child abuse.

Of the **children** seeking support, **419** were **under the age of 12**, and **170** were **between the age of 13 and 17 years old**.

Of the **adults** seeking support, **1,177** were between the age of **18 and 25**, **2,357** were between the age of **26 and 40**, **1,447** were between the age of **41 and 60**, and **182** people were **over the age of 61**.

**3,189** individuals did not provide their age.



**Figure 6**

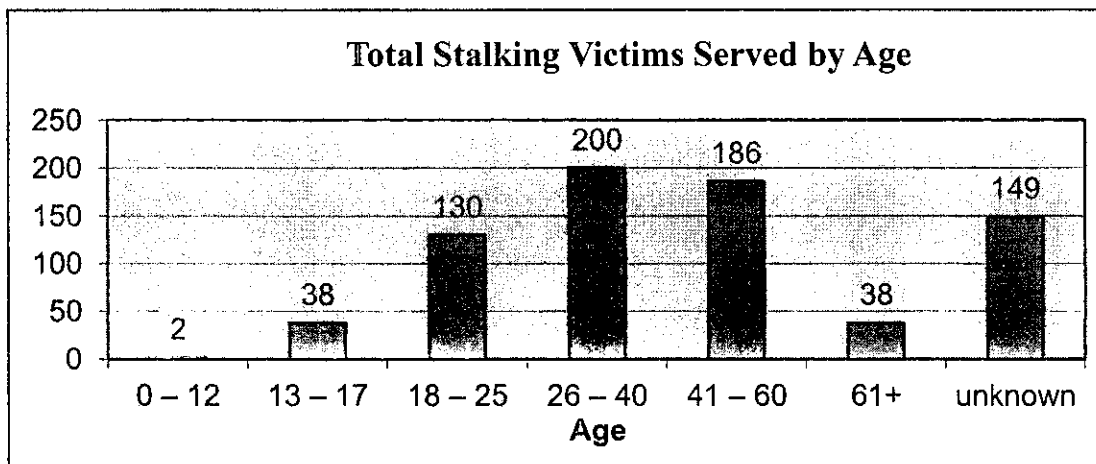
**2,111** victims sought services for sexual assault and/or sexual harassment.

Of the young people seeking support, **576** were **under** the age of **12**, and **435** were between the age of **13** and **17** years old.

Of the adults seeking support, **316** were between the age of **18** and **25**, **296** were between the age of **26** and **40**, **207** were between the age of **41** and **60**, and **15** people were **over** the age of **61**.

**266** individuals did not provide their age.





**Figure 7**

In 2011, 743 victims sought services for stalking.

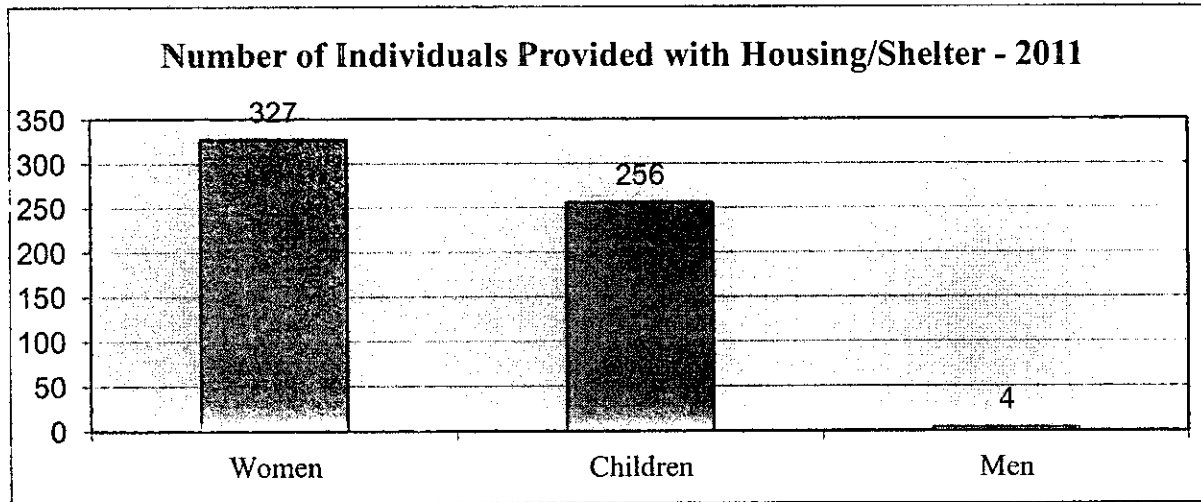
Of the young people seeking support, two were under the age of 12, and 38 were between the age of 13 and 17 years old.

Of the adults seeking support, 130 were between the age of 18 and 25, 200 were between the age of 26 and 40, 186 were between the age of 41 and 60, and 38 individuals were over the age of 61.

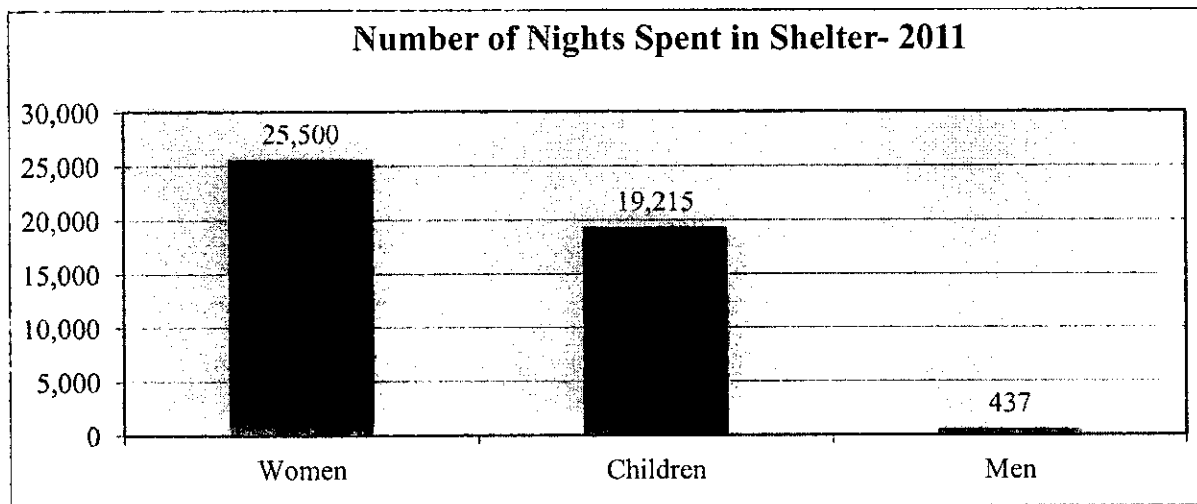
149 individuals did not provide their age.

## SHELTER

Shelters are often full, and families are staying for several months, much longer than in past years. This has greatly impacted the number of people who were able to receive shelter in 2011. The result is fewer people receiving shelter services, while the number of nights spent in shelter skyrocketed.



**Figure 8**



**Figure 9**

The number of women staying in shelter was 327, an increase of 3.5%, while the number of actual nights these women spent in shelter was 22,500, an increase of 40.8%.

The number of children staying in shelter was 256, an increase of 20.8 % while the number of actual nights these children spent in shelter was 19,215, an increase of 51.6%.

In addition 4 men received shelter for a total of 437 nights

## V. NEW HAMPSHIRE JUDICIAL BRANCH 2011 VIOLENCE AGAINST WOMEN DATA REPORT

### Summary

The data presented in **Figure 3 through Figure 11** and **Figure 13 through Figure 21** reflects information from civil domestic violence or civil stalking protective order cases. A civil protective order case is created when a **plaintiff** (person requesting relief) comes to the court during regular business hours to request immediate relief from abuse (RSA 173-B) or stalking (633:3-a). The plaintiff files a **petition** describing what occurred to cause them fear for their safety, then waits while the judge reviews the request. The judge may or may not speak with the plaintiff before issuing a decision.

The decision may be to either:

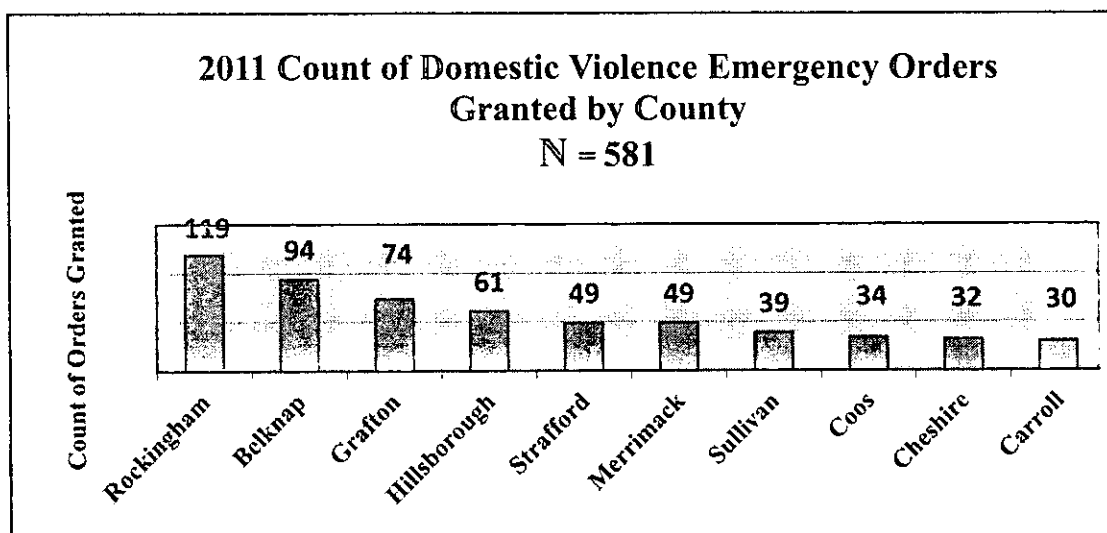
- Grant a **temporary order** of protection (valid until the final hearing is held within 30 days);
- Deny temporary orders but schedule a hearing at which both parties may present their case to the court; or
- Deny the request completely.

If a final hearing is scheduled, the **defendant** (person against whom the order is issued) is given notice by the police department regarding the allegations and temporary order. At the final hearing the judge hears arguments from both parties, and then typically issues a **final order** either dismissing the case or a granting a final order of protection (which will expire in one year). The plaintiff may file a **request to withdraw** the petition at any time during this process. Withdrawal or dismissal of a petition does not prevent a plaintiff from filing a new petition should new incidents occur.

*NOTE: County locations are determined by the case's current location. In most circumstances this will also be the location where the case was originally filed, but for a minor number of transferred cases, this will reflect only the court to which the case was transferred.*

*Merrimack County data include cases from the 6th Circuit Court in Franklin. This court's jurisdiction extends to Tilton and Sanbornton, towns physically located in Belknap County.*

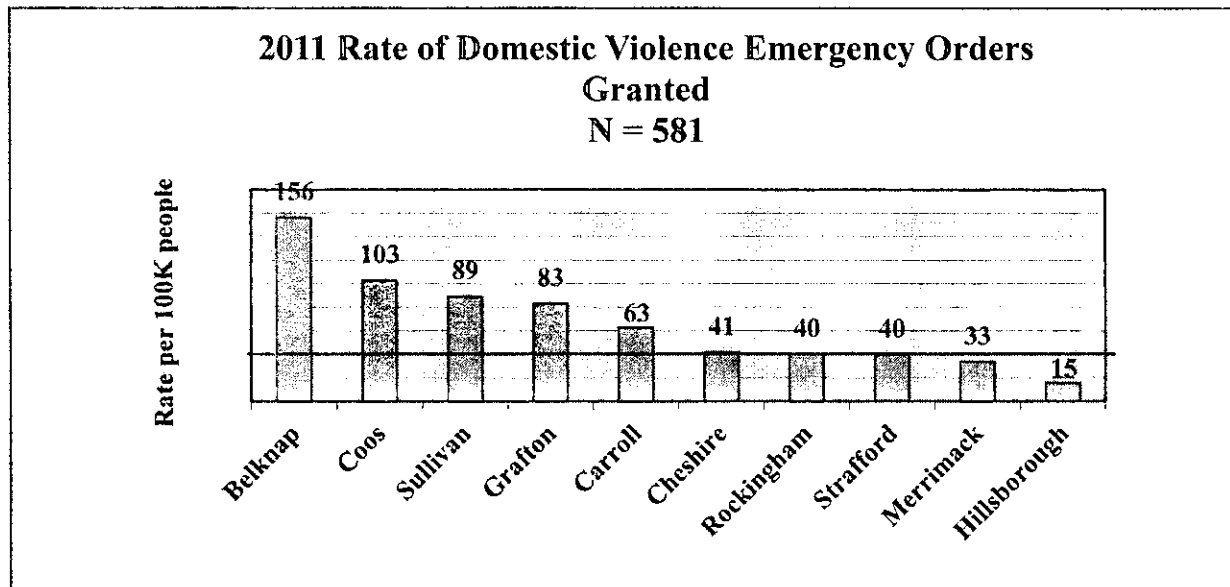
*Rate data reflected in figures 2, 4, 14, & 23 were calculated utilizing county population data obtained from the 2010 U.S. Census. <http://2010.census.gov/2010census/popmap/>*



**Figure 1**

At times when courts are closed, victims may request a civil **emergency protective order** through the police department. These orders remain in effect until the end of the next court business day, at which time a plaintiff may file a civil domestic violence petition to request continued protection. The court typically only receives copies of the orders that have been granted by an on call judge; data regarding those that may have been requested and denied are not available.

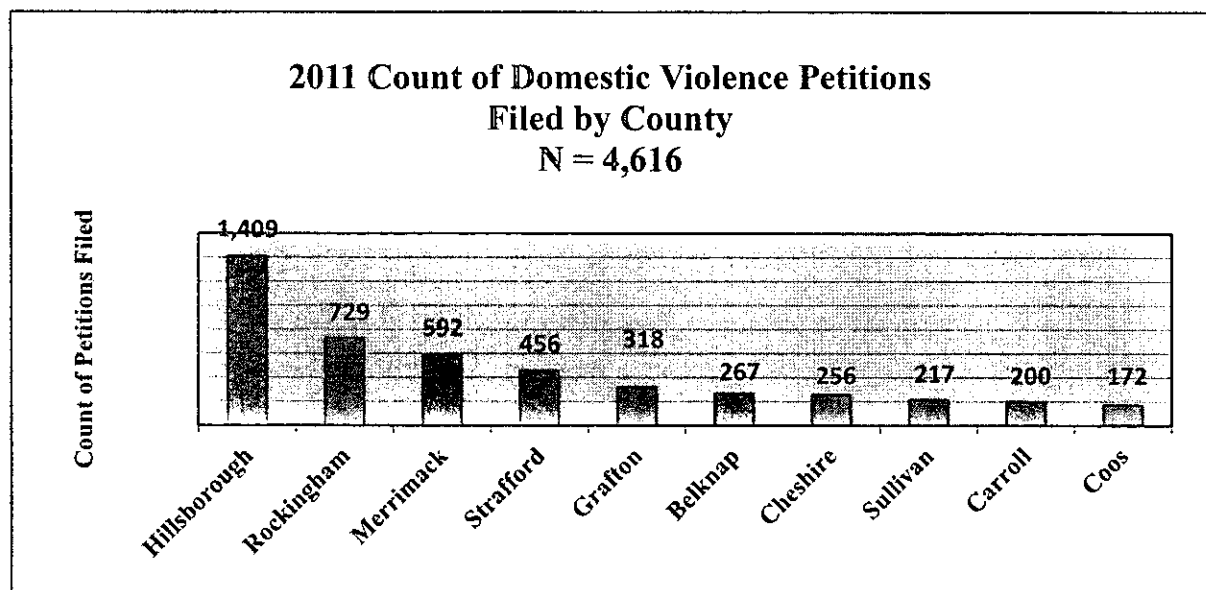
**Figure 1** identifies the number of emergency domestic violence orders granted by county.



**Figure 2**

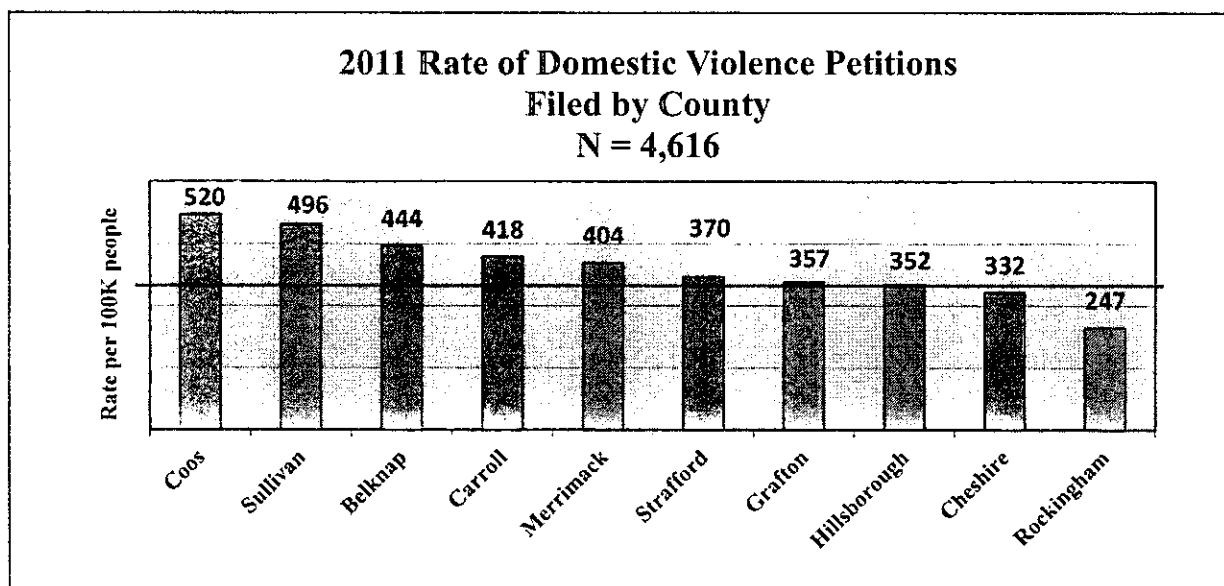
**Figure 2** represents the rate at which these orders are issued per 100,000 people. The red line in represents the statewide rate (44).

**Figure 2** indicates that, per capita, **Belknap County** tends to utilize these orders most frequently. It should be noted that, in addition to this civil option for protection, a criminal bail protective order may also be issued following a domestic violence incident. This may account for the low number of emergency orders in **Hillsborough County**, a county which appears to most frequently utilize criminal bail protective orders (see **Figure 23**).



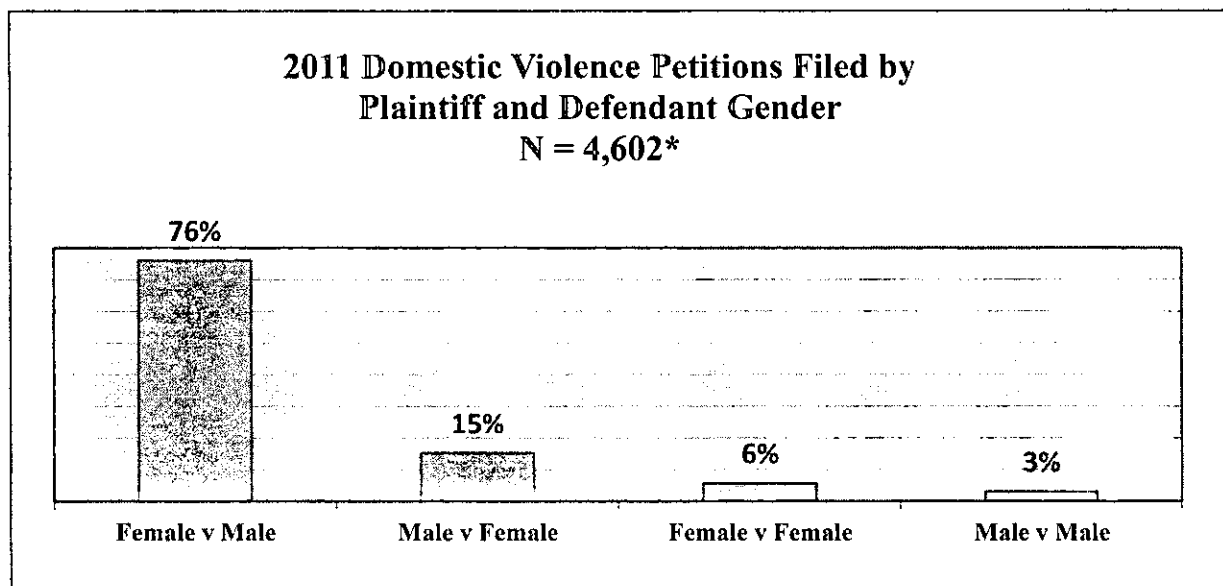
**Figure 3**

**Figure 3** reflects the number of civil domestic violence petitions (cases) filed in each county in 2011.



**Figure 4**

**Figure 4** reflects the rate at which these petitions were filed per 100,000 people in each county. The red line in figure 4 represents the statewide rate of 351 petitions filed per 100,000 people.



**Figure 5**

**Figure 5** reflects the gender of the plaintiff and defendant in civil domestic violence petitions (cases). \*Plaintiff and/or defendant gender identity was unavailable for 0.3% of the 4,616 petitions.

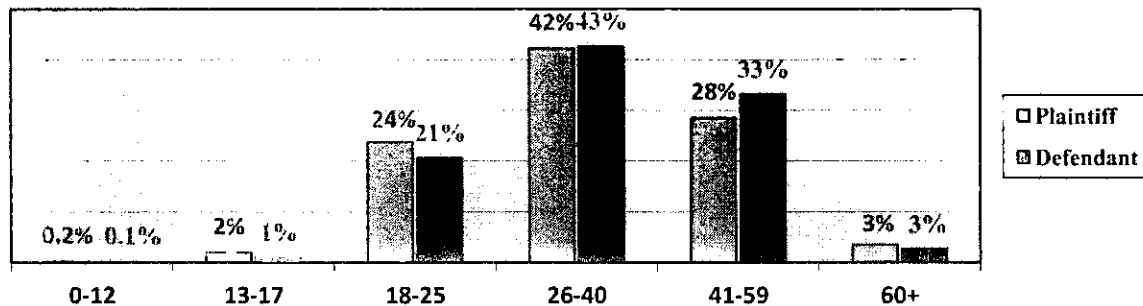
RSA 173-B:1 defines qualifying relationships as "a family or household member or by a current or former sexual or intimate partner."

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

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

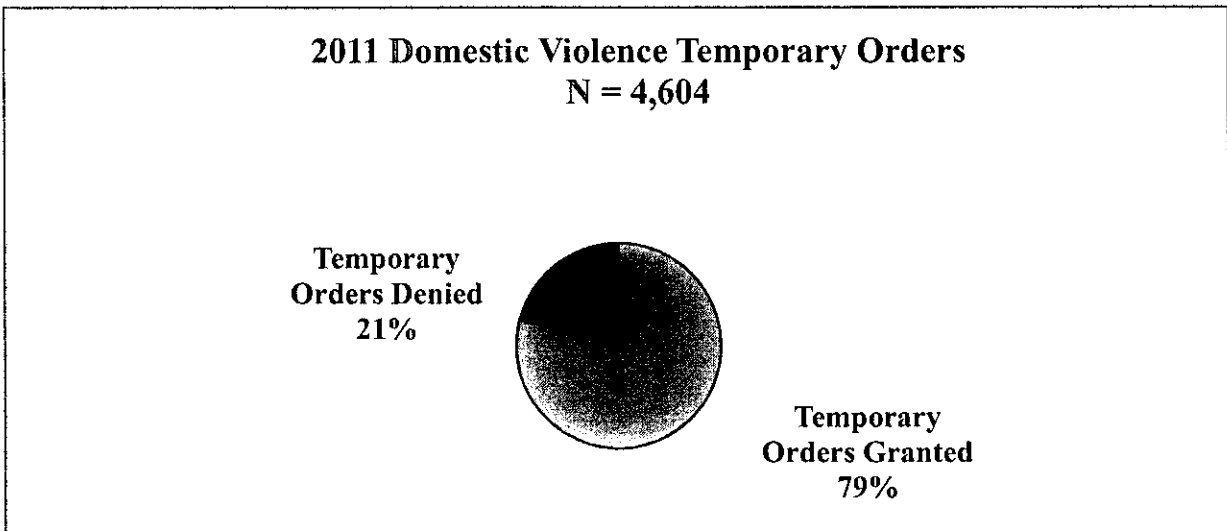
**2011 Petitions Filed by Plaintiff and Defendant Age**  
**N = 4,555 Plaintiffs / 4,448 Defendants\***



**Figure 6**

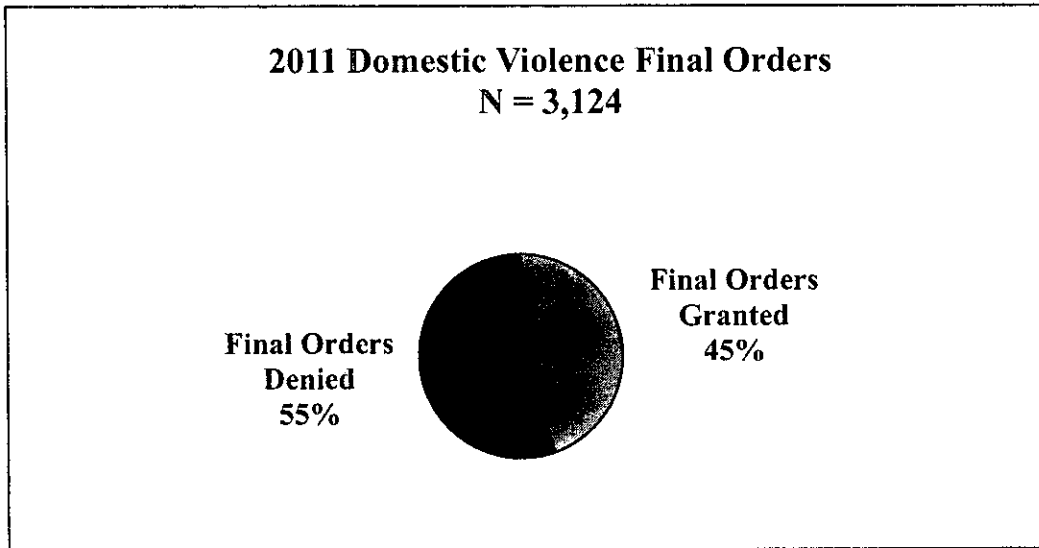
**Figure 6** identifies the age of the plaintiff and defendant at the time of filing in civil domestic violence petitions (cases). \*The plaintiff's date of birth was unavailable in 1%, and the defendant's date of birth was unavailable in 4%, of the 4,616 petitions. Birth date information is primarily provided by the plaintiff. The percentage of cases in which the defendant age was unknown is slightly higher because in some circumstances the plaintiff may not know the defendant's birthdates.





**Figure 7**

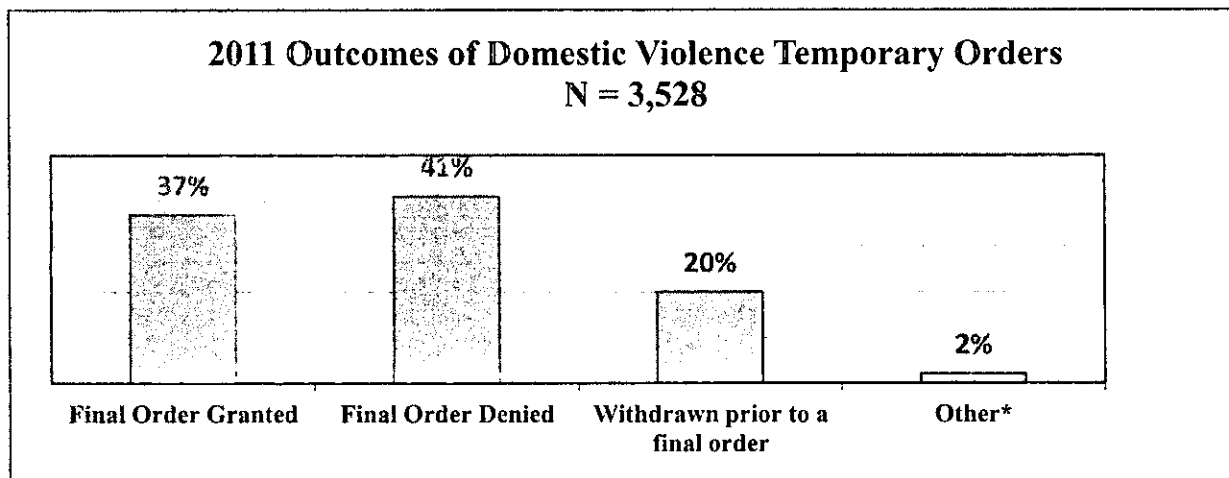
As reflected in **Figure 7**, **79%** of the civil domestic violence petitions filed in 2011 were granted a temporary order of protection. Of the **21%** of petitions which were denied temporary orders, **45%** were offered a final hearing and **55%** were denied completely. After a temporary order has been granted, a final hearing is held within 30 days to determine if the order should remain in effect. The defendant may also request a sooner final hearing within 3-5 days.



**Figure 8**

**Figure 8** indicates that, of all of the civil domestic violence cases containing a final order, 45% were granted a final order of protection for one year. It should be noted that reasons for denial of a final order vary, and are not yet able to be distinguished electronically. Possible reasons include parties' non-appearance at the final hearing and failure to find that abuse occurred as defined by RSA 173-B, among others.

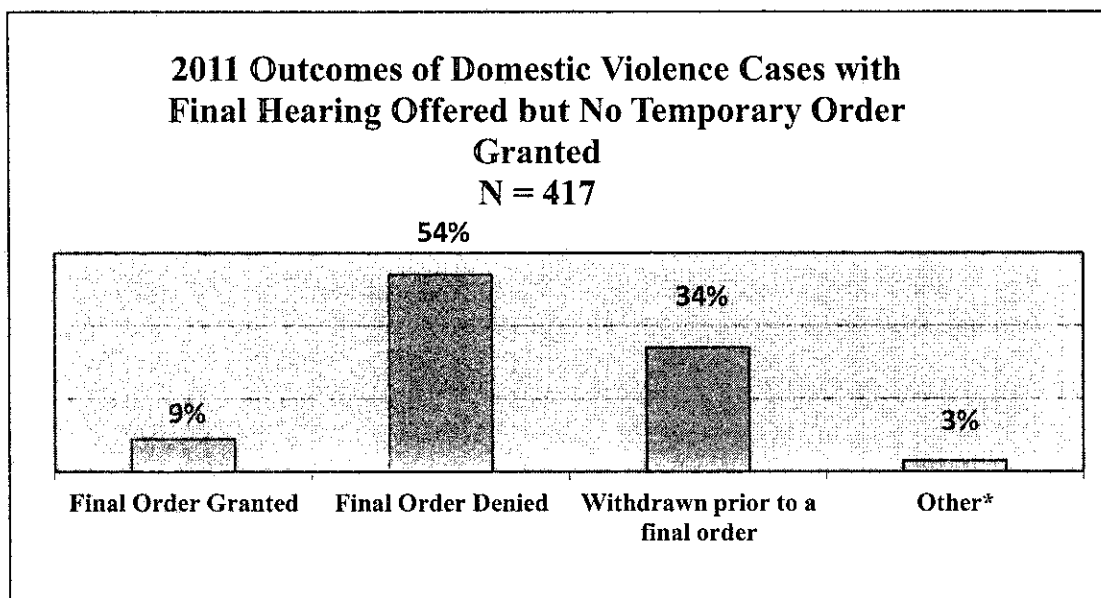
This figure does not take into account whether the case had a temporary order in place at the time the final order was granted, nor does it reflect the cases that may be withdrawn prior to a final hearing. For a more detailed examination of case outcomes, see **Figure 9** and **Figure 10**.



**Figure 9**

**Figure 9** and **Figure10** outline what occurred in civil domestic violence cases after an initial ruling (granting or denying a temporary order) was made. Data were obtained from cases that closed in 2011.

**Figure 9** displays outcomes of cases in which a temporary order of protection was granted.



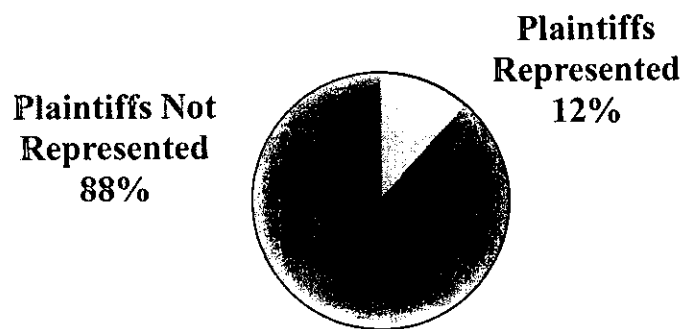
**Figure 10**

**Figure 10** displays outcomes of cases in which a temporary order of protection was denied, but a final hearing was offered. In this second circumstance, the court typically advises the plaintiff that the defendant will be served with notice of the petition and that no protective order is in place. Plaintiffs are given the opportunity to withdraw their petition at that time if they do not wish to continue to a final hearing without a temporary order in place.

It should be noted that reasons for denial of a final order vary, and are not yet able to be distinguished electronically. Possible reasons include parties' non-appearance at the final hearing and failure to find that abuse occurred as defined by RSA 173-B, among others.

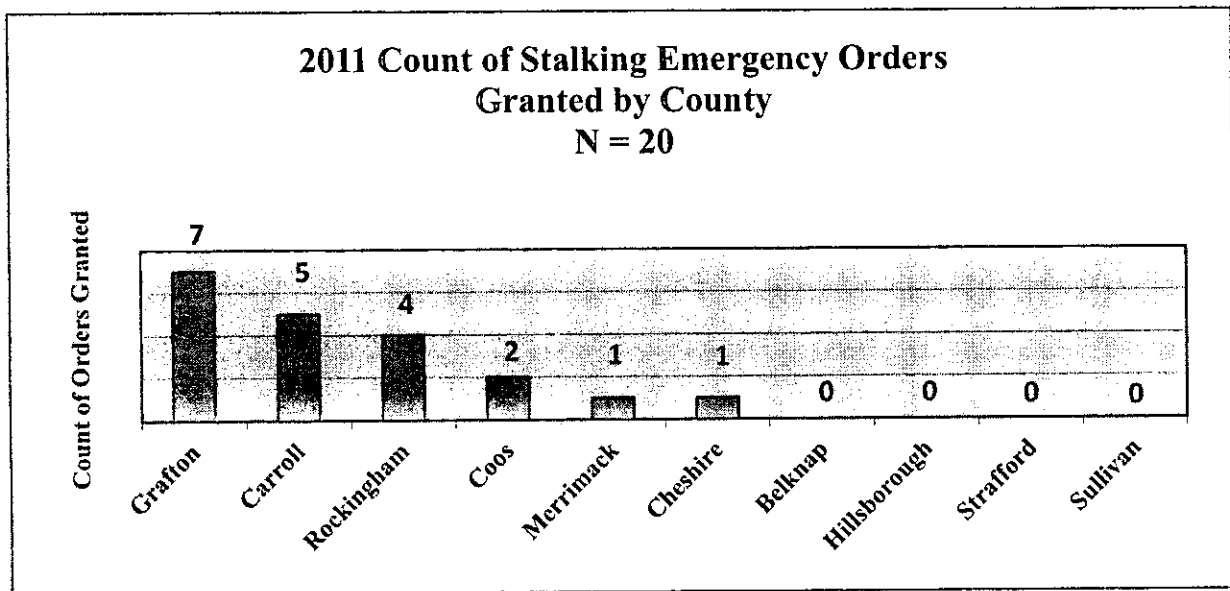
\*An outcome will be counted as "Other" if the case contains neither a final order nor a withdrawal. The most common reasons for this include: case was closed after judge approved parties' stipulated agreement; case was manually transferred to another court prior to a final order or withdrawal; and data entry error/omission.

**2011 Domestic Violence Plaintiff Representation**  
**N=4,616**



**Figure 11**

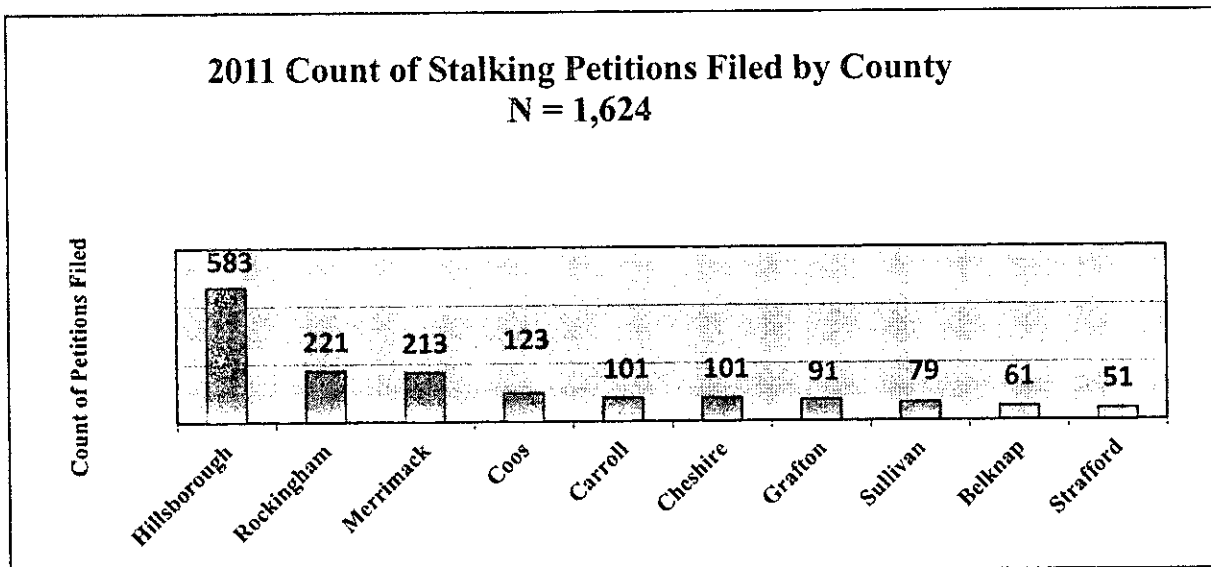
**Figure 11** indicates that **12%** of the plaintiffs who filed a civil domestic violence petition were represented by an attorney at some point during the court process.



**Figure 12**

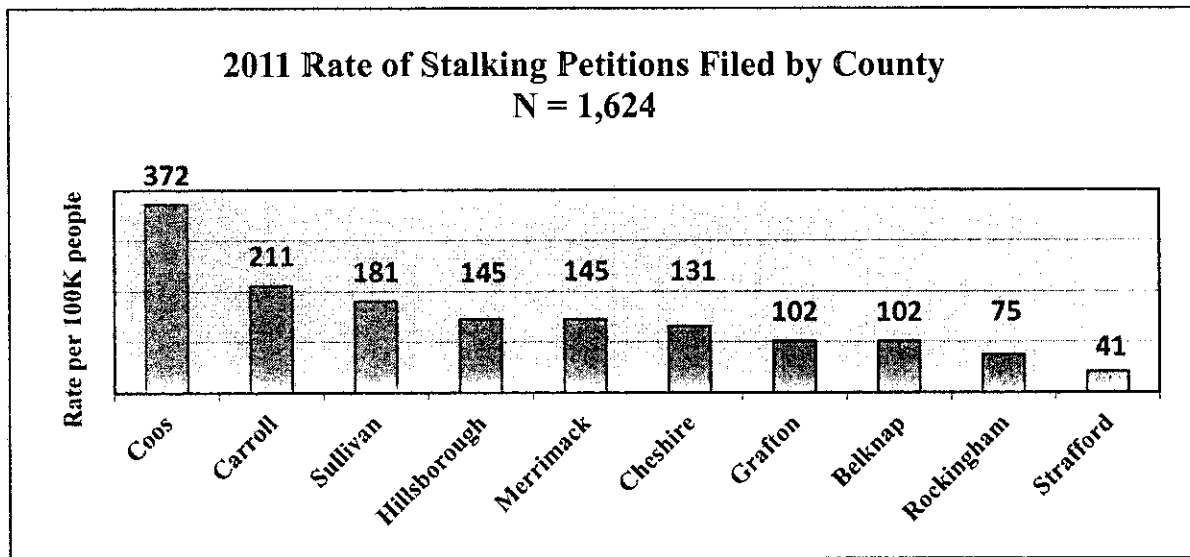
At times when courts are closed, victims may request a civil emergency protective order through the police department. These orders remain in effect until the end of the next court business day, at which time a plaintiff may file a civil stalking petition to request continued protection. The court typically only receives copies of the orders that have been granted by an on call judge; data regarding those that may have been requested and denied are not available.

**Figure 12** identifies the number of emergency stalking orders granted by county.



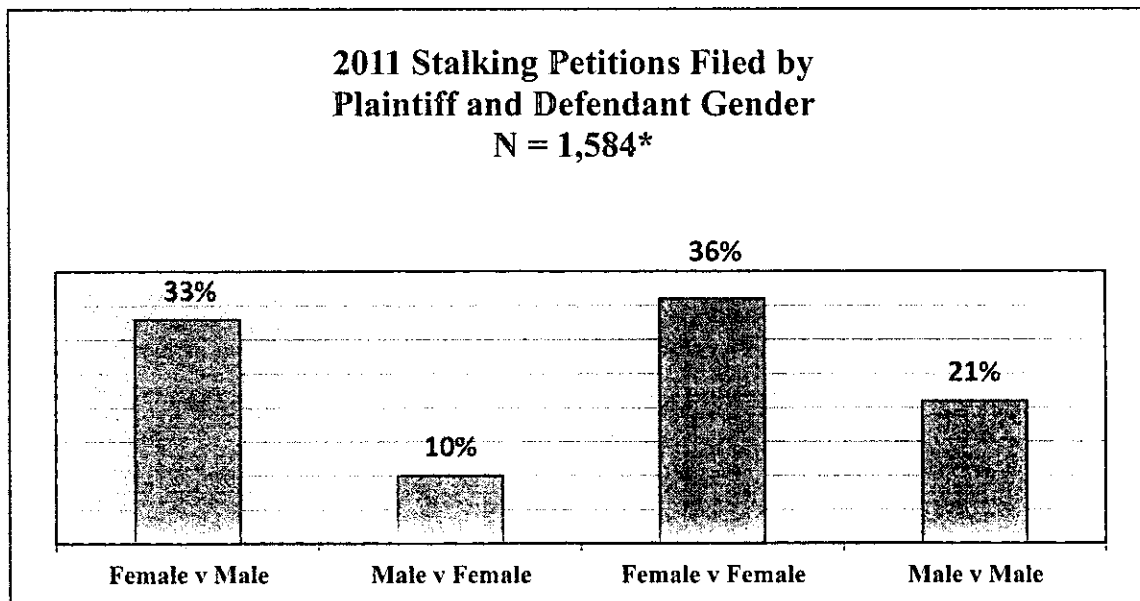
**Figure 13**

**Figure 13** reflects the number of civil stalking petitions (cases) filed in each county in 2011.



**Figure 14**

**Figure 14** reflects the rate at which these petitions were filed per 100,000 people in each county. The red line in figure 14 represents the statewide rate (123 petitions filed per 100,000 people).

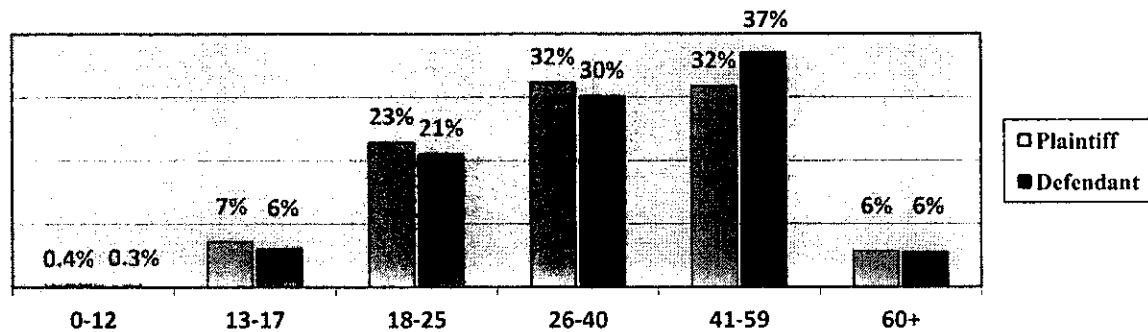


**Figure 15**

**Figure 15** reflects the gender of the plaintiff and defendant in civil stalking petitions (cases).

\*Plaintiff and/or defendant gender identity was unavailable for 2% of the 1,624 petitions. Unlike the domestic violence statute, the stalking statute (RSA 633:3-a) does not require a particular relationship between parties in order to qualify for a civil stalking protective order.

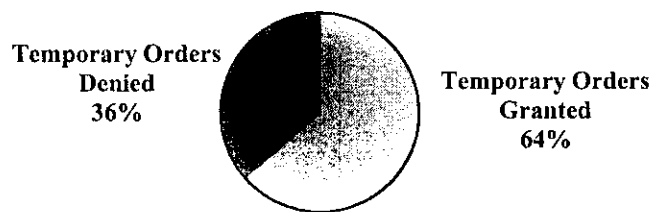
**2011 Stalking Petitions Filed by Plaintiff and Defendant Age**  
**N = 1,556 Plaintiffs / 1,306 Defendants\***



**Figure 16**

**Figure 16** identifies the age of the plaintiff and defendant at the time of filing in civil stalking petitions (cases). \*The plaintiff's date of birth was unavailable in 4%, and the defendant's date of birth was unavailable in 20%, of the 1,624 petitions. Birth date information is primarily provided by the plaintiff. The percentage of cases in which the defendant age was unknown is particularly high because in many circumstances the plaintiff may not know the defendant's birth date. This is especially true in stalking cases, as the parties may be less intimately acquainted than in a domestic violence case.

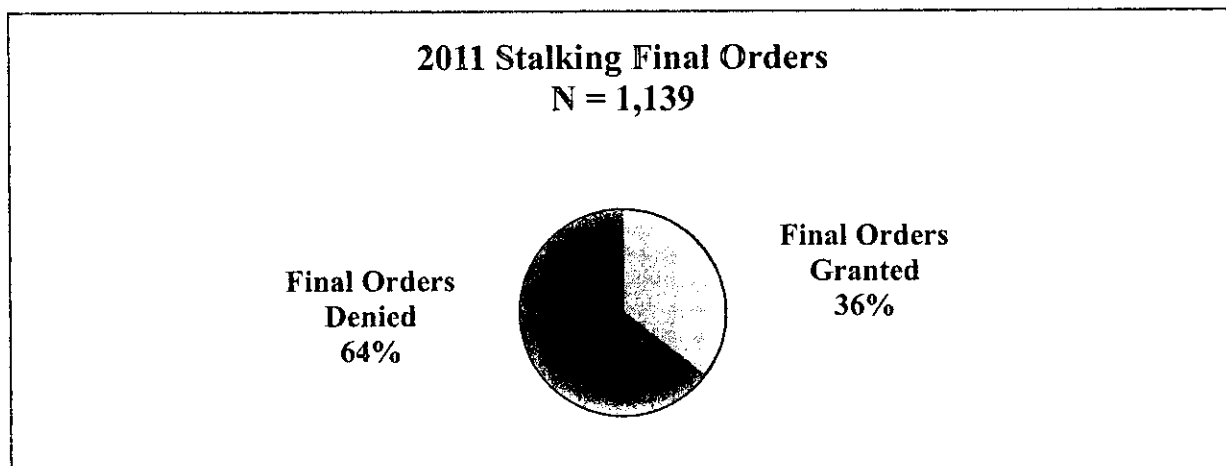
**2011 Stalking Temporary Orders**  
**N = 1,623**



**Figure 17**

As reflected in **Figure 17**, 64% of the civil stalking petitions filed in 2011 were granted a temporary order of protection. Of the 36% of petitions which were denied temporary orders, 48% were offered a final hearing and 52% were denied completely. After a temporary order has been granted, a final hearing is held within 30 days to determine if the order should remain in effect. The defendant may also request a sooner final hearing within 3-5 days.

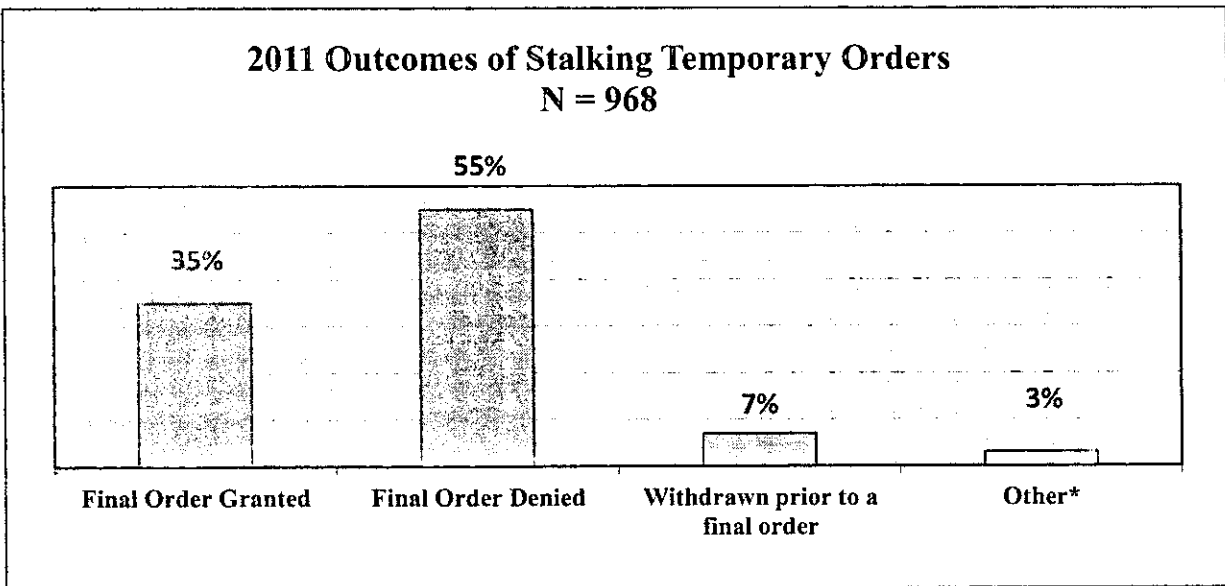




**Figure 18**

**Figure 18** indicates that, of all of the civil stalking cases containing a final order, **36%** were granted a final order of protection for one year. It should be noted that reasons for denial of a final order vary, and are not yet able to be distinguished electronically. Possible reasons include parties' non-appearance at the final hearing and failure to find that stalking occurred as defined by RSA 633:3-a, among others.

This graph does not take into account whether the case had a temporary order in place at the time the final order was granted, nor does it reflect the cases that may be withdrawn prior to a final hearing. For a more detailed examination of case outcomes, see **Figure 19** and **Figure 20**.



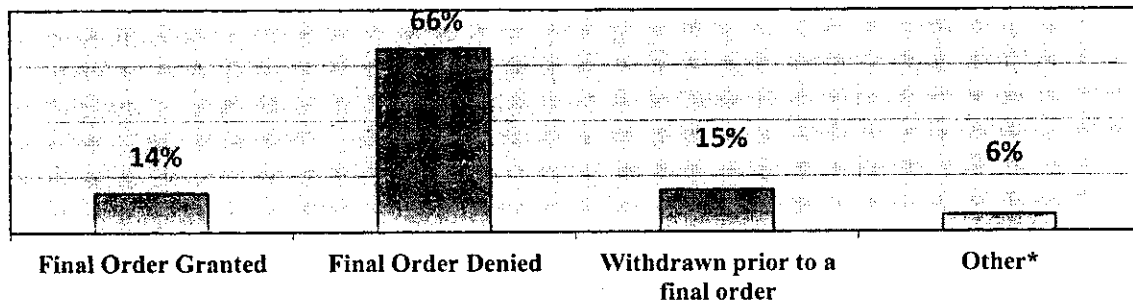
**Figure 19**

**Figure 19** and **Figure 20** outline what occurred in civil stalking cases after an initial ruling (granting or denying a temporary order) was made. Data were obtained from cases that closed in 2011.

**Figure 19** displays outcomes of cases in which a temporary order of protection was granted.

**2011 Outcomes of Stalking Cases with Final Hearing Offered  
but No Temporary Order Granted**

**N = 265**

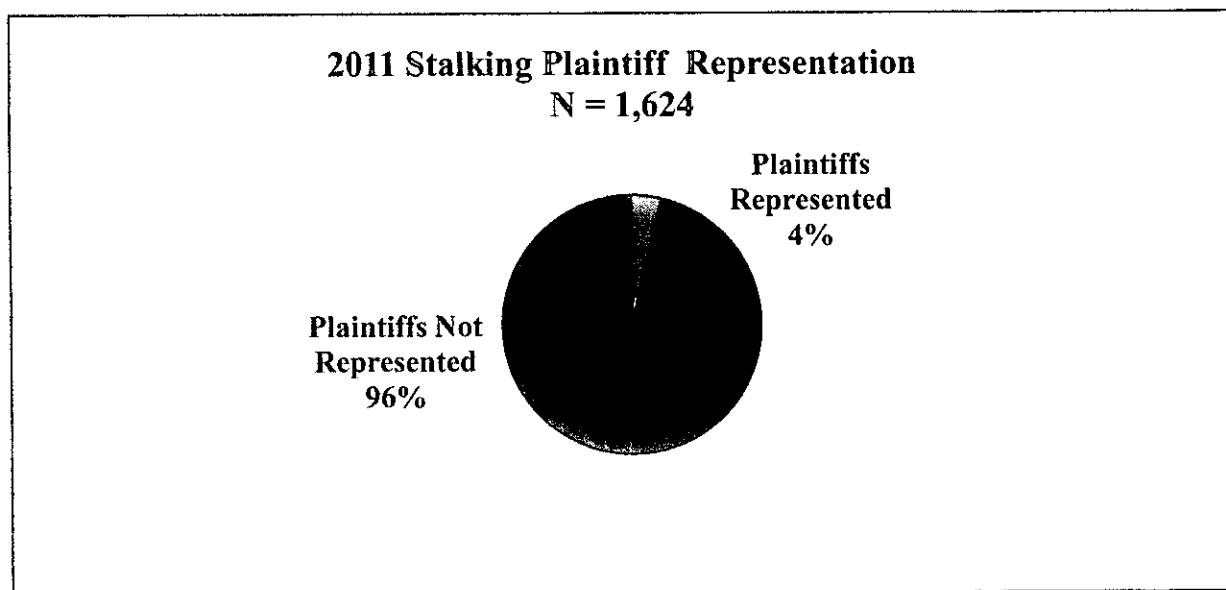


**Figure 20**

**Figure 20** displays outcomes of cases in which a temporary order of protection was denied, but a final hearing was offered. In this second circumstance, the court typically advises the plaintiff that the defendant will be served with notice of the petition and that no protective order is in place. Plaintiffs are given the opportunity to withdraw their petition at that time if they do not wish to continue to a final hearing without a temporary order in place.

It should be noted that reasons for denial of a final order vary, and are not yet able to be distinguished electronically. Possible reasons include parties' non-appearance at the final hearing and failure to find that abuse occurred as defined by RSA 173-B, among others.

\*An outcome will be counted as "Other" if the case contains neither a final order nor a withdrawal. The most common reasons for this include: case was closed after judge approved parties' stipulated agreement; case was manually transferred to another court prior to a final order or withdrawal; and data entry error/omission.



**Figure 21**

**Figure 21** indicates that 4% of the plaintiffs who filed a civil stalking petition were represented by an attorney at some point during the process.

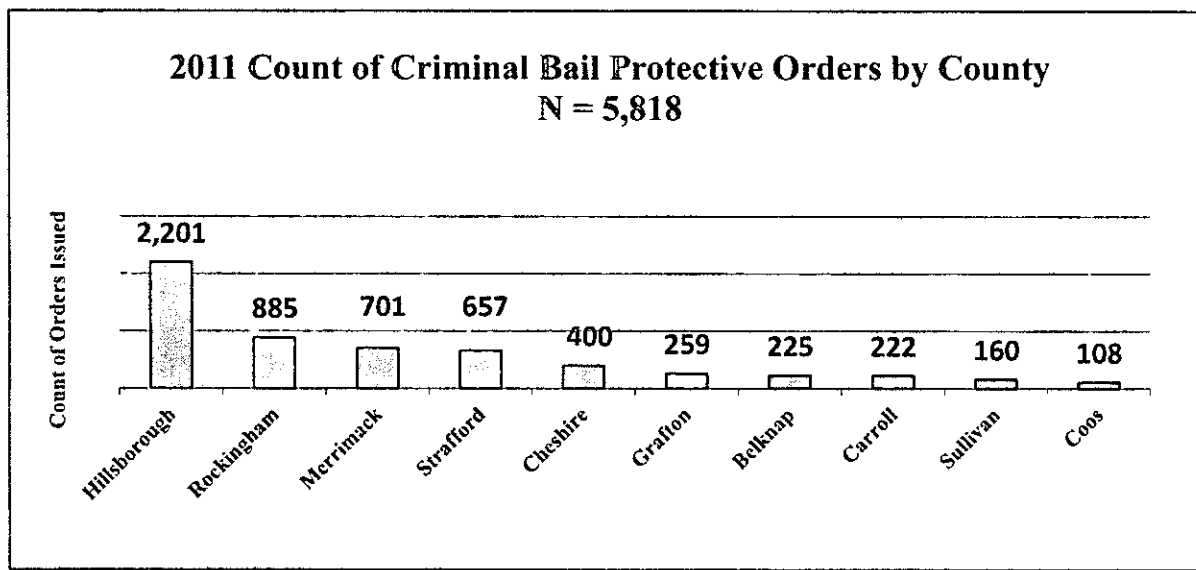


Figure 22

Figure 22 reflects the number of criminal bail protective orders (CBPOs) issued in each county in 2011.

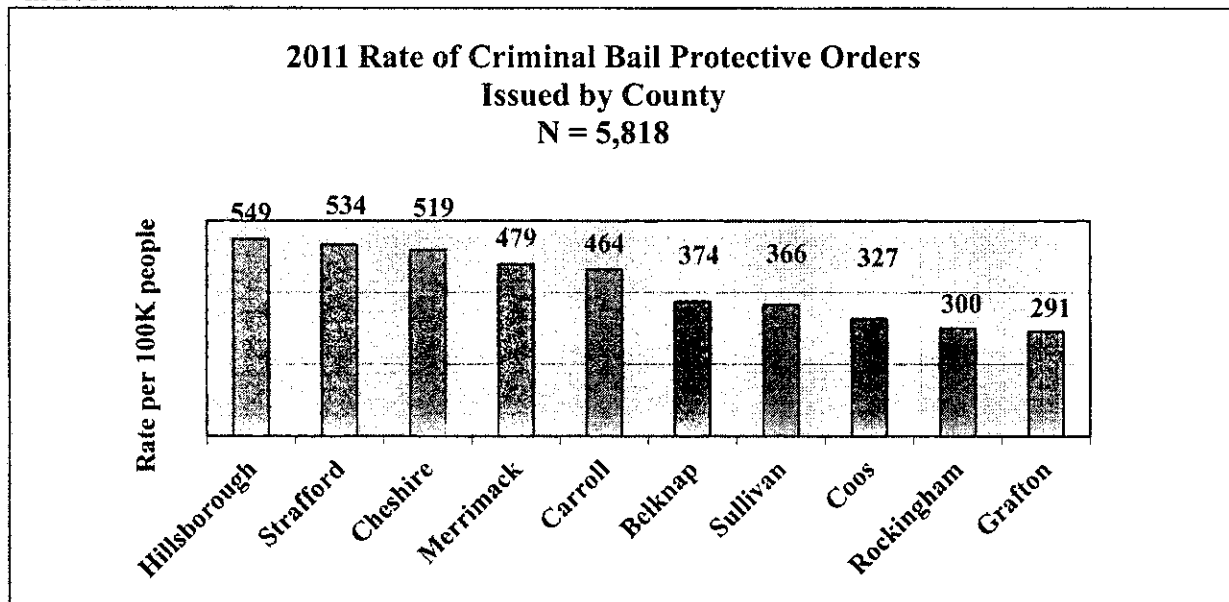


Figure 23

Figure 23 reflects the rate at which these orders were issued per 100,000 people in each county. The red line in figure 4 represents the statewide rate of **442 orders issued per 100,000 people**. Criminal bail protective orders, unlike civil domestic violence protective orders, are initiated by a bail commissioner or judge (rather than by the victim) following an arrest for a domestic violence-related crime. The order becomes "final" when adopted by a judge at arraignment. The order remains in effect until vacated or the criminal case is disposed.

<b>2011 Violation of Protective Order - Charges</b>	
Felony	14
Misdemeanor	980
Violation	1
<b>Total</b>	<b>995</b>

**Figure 24**

**Figure 24** reflects the number of violation of protective order (RSA 173-B:9) charges filed in the District Division of the Circuit Court in 2011. Criminal charges are filed by a police department following a violation of a civil domestic violence protective order. Typically, one charge is filed for each unique incident or offense. For example, if a defendant violated the order by contacting the victim three times, three charges may be filed. Incidents occurring within close proximity (ex: numerous text messages) may, at times, be filed as one charge.

<b>2011 Violation of Protective Order - Dispositions</b>						
	Acquittal	Bindover	Conviction	Dismissed	Nolle Prossed	Other*
Felony N = 11	-	55%	-	-	45%	-
Misdemeanor N = 943	2%	-	40%	9%	38%	12%
Violation N = 3	-	-	100%	-	-	-
<b>Total N = 957</b>	<b>2%</b>	<b>1%</b>	<b>40%</b>	<b>9%</b>	<b>38%</b>	<b>11%</b>

**Figure 25**

**Figure 25** reflects dispositions made in 2011 on violation of protective order (RSA 173-B:9) charges filed in the District Division of the Circuit Court. Each charge receives a unique disposition. \*

Other dispositions include: Placed on File without a Finding (n = 107), Underlying Charges Filed (n = 1), Default (n = 1).

The reader may note that number of dispositions (957) is not equal to the number of charges (995) in **Figure 24**; this is because charges are not always disposed in the same calendar year in which they are filed.

# **State Statutes: Misdemeanor Crimes of Domestic Violence**

Revised December 2013



BATTERED WOMEN'S JUSTICE PROJECT  
**National Center on Protection Orders  
and Full Faith & Credit**

Prepared by the National Center on Protection Orders and Full Faith & Credit –[www.fullfaithandcredit.org](http://www.fullfaithandcredit.org)  
State statutes are consistently changing. Please use this matrix as a basis for your own independent research. If you have a correction or update please contact us at 800-903-0111 prompt 2, or via email at [ncffc@bwjp.org](mailto:ncffc@bwjp.org).

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**State  
Alabama**

**Statute with Citation**

Code of Ala. § 13A-6-130 (2013)  
Domestic violence in the first degree.

(a) A person commits the crime of domestic violence in the first degree if the person commits the crime of assault in the first degree pursuant to Section 13A-6-20 or aggravated stalking pursuant to Section 13A-6-91, and the victim is a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant. Domestic violence in the first degree is a Class A felony, except that the defendant shall serve a minimum term of imprisonment of one year without consideration of probation, parole, good time credits, or any other reduction in time for any second or subsequent conviction under this subsection.

(b) The minimum term of imprisonment imposed under subsection (a) shall be double without consideration of probation, parole, good time credits, or any reduction in time if a defendant willfully violates a protection order issued by a court of competent jurisdiction and in the process of violating the order commits domestic violence in the first degree.

Code of Ala. § 13A-6-131 (2013)  
Domestic violence in the second degree.

(a) A person commits the crime of domestic violence in the second degree if the person commits the crime of assault in the second degree pursuant to Section 13A-6-21; the crime of intimidating a witness pursuant to Section 13A-10-123; the crime of stalking pursuant to Section 13A-6-90; the crime of burglary in the second or third degree pursuant to Sections 13A-7-6 and 13A-7-7; or the crime of criminal mischief in the first degree pursuant to Section 13A-7-21 and the victim is a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant. Domestic violence in the second degree is a Class B felony, except the defendant shall serve a minimum term of imprisonment of six months without consideration of probation, parole, good time credits, or any reduction in time for any second or subsequent conviction under this subsection.

(b) The minimum term of imprisonment imposed under subsection (a) shall be double without consideration of probation, parole, good time credits, or any reduction in time if a defendant willfully violates a protection order issued by a court of competent jurisdiction and in the process of violating the order commits domestic violence in the second degree.

Code of Ala. § 13A-6-132 (2013)

Domestic violence in the third degree.

(a) A person commits domestic violence in the third degree if the person commits the crime of assault in the third degree pursuant to Section 13A-6-22; the crime of menacing pursuant to Section 13A-6-23; the crime of reckless endangerment pursuant to Section 13A-6-24; the crime of criminal coercion pursuant to Section 13A-6-25; the crime of harassment pursuant to subsection (a) of Section 13A-11-8; the crime of criminal surveillance pursuant to Section 13A-11-32; the crime of harassing communications pursuant to subsection (b) of Section 13A-11-8; the crime of criminal trespass in the third degree pursuant to Section 13A-7-4; the crime of criminal mischief in the second or third degree pursuant to Sections 13A-7-22 and 13A-7-23; or the crime of arson in the third degree pursuant to Section 13A-7-43; and the victim is a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant. Domestic violence in the third degree is a Class A misdemeanor.

(b) The minimum term of imprisonment imposed under subsection (a) shall be 30 days without consideration of reduction in time if a defendant willfully violates a protection order issued by a court of competent jurisdiction and in the process of violating the order commits domestic violence in the third degree.

(c) A second conviction under subsection (a) is a Class A misdemeanor, except the defendant shall serve a minimum term of imprisonment of 10 days in a city or county jail or detention facility without consideration for any reduction in time.

(d) A third or subsequent conviction under subsection (a) is a Class C felony.

**Alaska**  
**Arizona**

(e) For purposes of determining second, third, or subsequent number of convictions, convictions in municipal court shall be included.

No Statute.

A.R.S. § 13-1203 (2013)

Assault; classification

A. A person commits assault by:

1. Intentionally, knowingly or recklessly causing any physical injury to another person; or
2. Intentionally placing another person in reasonable apprehension of imminent physical injury; or
3. Knowingly touching another person with the intent to injure, insult or provoke such person.

B. Assault committed intentionally or knowingly pursuant to subsection A, paragraph 1 is a class 1 misdemeanor. Assault committed recklessly pursuant to subsection A, paragraph 1 or assault pursuant to subsection A, paragraph 2 is a class 2 misdemeanor. Assault committed pursuant to subsection A, paragraph 3 is a class 3 misdemeanor.

A.R.S. § 13-3601 (2013)

Domestic violence; definition; classification; sentencing option; arrest and procedure for violation; weapon seizure

A. "Domestic violence" means any act that is a dangerous crime against children as defined in section 13-705 or an offense prescribed in section 13-1102, 13-1103, 13-1104, 13-1105, 13-1201, 13-1202, 13-1203, 13-1204, 13-1302, 13-1303, 13-1304, 13-1406, 13-1502, 13-1503, 13-1504, 13-1602 or 13-2810, section 13-2904, subsection A, paragraph 1, 2, 3 or 6, section 13-2910, subsection A, paragraph 8 or 9, section 13-2915, subsection A, paragraph 3 or section 13-2916, 13-2921, 13-2921.01, 13-2923, 13-3019, 13-3601.02 or 13-3623, if any of the following applies:

1. The relationship between the victim and the defendant is one of marriage or former marriage or of

persons residing or having resided in the same household.

2. The victim and the defendant have a child in common.

3. The victim or the defendant is pregnant by the other party.

4. The victim is related to the defendant or the defendant's spouse by blood or court order as a parent, grandparent, child, grandchild, brother or sister or by marriage as a parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law or sister-in-law.

5. The victim is a child who resides or has resided in the same household as the defendant and is related by blood to a former spouse of the defendant or to a person who resides or who has resided in the same household as the defendant.

6. The relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship. The following factors may be considered in determining whether the relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship:

(a) The type of relationship.

(b) The length of the relationship.

(c) The frequency of the interaction between the victim and the defendant.

(d) If the relationship has terminated, the length of time since the termination.

**Arkansas**

A.C.A. § 5-26-305 (2013)

Domestic battering in the third degree.

(a) A person commits domestic battering in the third degree if:

(1) With the purpose of causing physical injury to a family or household member, the person causes physical injury to a family or household member;

(2) The person recklessly causes physical injury to a family or household member;

(3) The person negligently causes physical injury to a family or household member by means of a deadly weapon; or

(4) The person purposely causes stupor, unconsciousness, or physical or mental impairment or injury to a family or household member by administering to the family or household member, without the family or household member's consent, any drug or other substance.

(b) (1) Domestic battering in the third degree is a Class A misdemeanor.

(2) However, domestic battering in the third degree is a Class D felony if:

(A) Committed against a woman the person knew or should have known was pregnant;

(B) The person committed one (1) or more of the following offenses within five (5) years of the offense of domestic battering in the third degree:

(i) Domestic battering in the first degree, § 5-26-303;

(ii) Domestic battering in the second degree, § 5-26-304;

(iii) Domestic battering in the third degree;

(iv) Aggravated assault on a family or household member, § 5-26-306; or

(v) A violation of an equivalent penal law of this state or of another state or foreign jurisdiction; or

(b) (C) The person committed two (2) or more offenses of battery against a family or household member as defined by a law of this state or by an equivalent law of any other state or foreign jurisdiction within ten

(10) years of the offense of domestic battering in the second degree.

A.C.A. § 5-26-307 (2013)

First degree assault on family or household member.

(a) A person commits first degree assault on a family or household member if the person recklessly engages in conduct that creates a substantial risk of death or serious physical injury to a family or household member.

(b) First degree assault on a family or household member is a Class A misdemeanor.

A.C.A. § 5-26-308 (2013)

Second degree assault on family or household member.

(a) A person commits second degree assault on a family or household member if the person recklessly engages in conduct that creates a substantial risk of physical injury to a family or household member.

(b) Second degree assault on a family or household member is a Class B misdemeanor.

A.C.A. § 5-26-309 (2013)

Third degree assault on a family or household member.

(a) A person commits third degree assault on a family or household member if the person purposely creates apprehension of imminent physical injury to a family or household member.

(b) Third degree assault on a family or household member is a Class C misdemeanor.

Cal Pen Code § 243 (2013)

Punishment for battery generally; Punishment for battery against specified officers or others

(e)(1) When a battery is committed against a spouse, a person with whom the defendant is cohabiting, a person who is the parent of the defendant's child, former spouse, fiancé, or fiancée, or a person with whom the defendant currently has, or has previously had, a dating or engagement relationship, the battery is

California

punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail for a period of not more than one year, or by both that fine and imprisonment. If probation is granted, or the execution or imposition of the sentence is suspended, it shall be a condition thereof that the defendant participate in, for no less than one year, and successfully complete, a batterer's treatment program, as described in Section 1203.097, or if none is available, another appropriate counseling program designated by the court. However, this provision shall not be construed as requiring a city, a county, or a city and county to provide a new program or higher level of service as contemplated by Section 6 of Article XIII B of the California Constitution.

(2) Upon conviction of a violation of this subdivision, if probation is granted, the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(A) That the defendant make payments to a battered women's shelter, up to a maximum of five thousand dollars (\$5,000).

(B) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under this subdivision, the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. If the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property shall not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.

(3) Upon conviction of a violation of this subdivision, if probation is granted or the execution or imposition of the sentence is suspended and the person has been previously convicted of a violation of this subdivision and sentenced under paragraph (1), the person shall be imprisoned for not less than 48 hours in addition to the conditions in paragraph (1). However, the court, upon a showing of good cause, may elect not to impose the mandatory minimum imprisonment as required by this subdivision and may, under these circumstances, grant probation or order the suspension of the execution or imposition of the sentence.



(4) The Legislature finds and declares that these specified crimes merit special consideration when imposing a sentence so as to display society's condemnation for these crimes of violence upon victims with whom a close relationship has been formed.

(5) If a peace officer makes an arrest for a violation of paragraph (1) of subdivision (e) of this section, the peace officer is not required to inform the victim of his or her right to make a citizen's arrest pursuant to subdivision (b) of Section 836.

<b>Colorado</b>	No Statute
<b>Connecticut</b>	No Statute
<b>Delaware</b>	No statute
<b>District of Columbia</b>	No statute
<b>Florida</b>	No Statute
<b>Georgia</b>	O.C.G.A. § 16-5-20 (2013) Simple assault

(a) A person commits the offense of simple assault when he or she either:

(1) Attempts to commit a violent injury to the person of another; or

(2) Commits an act which places another in reasonable apprehension of immediately receiving a violent injury.

(b) Except as provided in subsections (c) through (h) of this Code section, a person who commits the offense of simple assault shall be guilty of a misdemeanor.

(d) If the offense of simple assault is committed between past or present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons excluding siblings living or formerly living in the same household, the defendant shall be punished for a misdemeanor of a high and aggravated nature. In no event shall this subsection be applicable to corporal punishment administered by a parent or guardian to a child or administered by a person acting in loco parentis.

O.C.G.A. § 16-5-23 (2013)

Simple battery

- (a) A person commits the offense of simple battery when he or she either:
  - (1) Intentionally makes physical contact of an insulting or provoking nature with the person of another; or
  - (2) Intentionally causes physical harm to another.
- (b) Except as otherwise provided in subsections (c) through (i) of this Code section, a person convicted of the offense of simple battery shall be punished as for a misdemeanor.
- (f) If the offense of simple battery is committed between past or present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons excluding siblings living or formerly living in the same household, the defendant shall be punished for a misdemeanor of a high and aggravated nature. In no event shall this subsection be applicable to corporal punishment administered by a parent or guardian to a child or administered by a person acting in loco parentis.

O.C.G.A. § 16-5-23.1 (2013)

Battery

- (a) A person commits the offense of battery when he or she intentionally causes substantial physical harm or visible bodily harm to another.
- (b) As used in this Code section, the term "visible bodily harm" means bodily harm capable of being perceived by a person other than the victim and may include, but is not limited to, substantially blackened eyes, substantially swollen lips or other facial or body parts, or substantial bruises to body parts.
- (c) Except as provided in subsections (d) through (l) of this Code section, a person who commits the offense of battery is guilty of a misdemeanor.
- (f) If the offense of battery is committed between past or present spouses, persons who are parents of the

same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons living or formerly living in the same household, then such offense shall constitute the offense of family violence battery and shall be punished as follows:

(1) Upon a first conviction of family violence battery, the defendant shall be guilty of and punished for a misdemeanor; and

(2) Upon a second or subsequent conviction of family violence battery against the same or another victim, the defendant shall be guilty of a felony and shall be punished by imprisonment for not less than one nor more than five years. In no event shall this subsection be applicable to reasonable corporal punishment administered by parent to child.

**Guam**

9 GCA § 30.20 (2013)  
Family Violence.

(a) Any person who intentionally, knowingly, or recklessly commits an act of family violence, as defined in § 30.10 of this Chapter, is guilty of a misdemeanor, or of a third degree felony.

9 GCA § 30.10 (2013)  
Definitions.

As used in this Chapter:

(a) Family violence means the occurrence of one (1) or more of the following acts by a family or household member, but does not include acts of self-defense or defense of others:

1. Attempting to cause or causing bodily injury to another family or household member;
2. Placing a family or household member in fear of bodily injury.

**Hawaii**

HRS § 709-906 (2013)  
Abuse of family or household members; penalty.

(1) It shall be unlawful for any person, singly or in concert, to physically abuse a family or household member or to refuse compliance with the lawful order of a police officer under subsection (4). The police, in

investigating any complaint of abuse of a family or household member, upon request, may transport the abused person to a hospital or safe shelter.

For the purposes of this section, "family or household member" means spouses or reciprocal beneficiaries, former spouses or reciprocal beneficiaries, persons in a dating relationship as defined under section 586-1, persons who have a child in common, parents, children, persons related by consanguinity, and persons jointly residing or formerly residing in the same dwelling unit.

(4) Any police officer, with or without a warrant, may take the following course of action where the officer has reasonable grounds to believe that there was physical abuse or harm inflicted by one person upon a family or household member, regardless of whether the physical abuse or harm occurred in the officer's presence:

(a) The police officer may make reasonable inquiry of the family or household member upon whom the officer believes physical abuse or harm has been inflicted and other witnesses as there may be;

(b) Where the police officer has reasonable grounds to believe that there is probable danger of further physical abuse or harm being inflicted by one person upon a family or household member, the police officer lawfully shall order the person to leave the premises for a period of separation of forty-eight hours, during which time the person shall not initiate any contact, either by telephone or in person, with the family or household member; provided that the person is allowed to enter the premises with police escort to collect any necessary personal effects;

(c) Where the police officer makes the finding referred to in paragraph (b) and the incident occurs after 12:00 p.m. on any Friday, or on any Saturday, Sunday, or legal holiday, the order to leave the premises and to initiate no further contact shall commence immediately and be in full force, but the forty-eight hour period shall be enlarged and extended until 4:30 p.m. on the first day following the weekend or legal holiday;

(d) All persons who are ordered to leave as stated above shall be given a written warning citation stating the date, time, and location of the warning and stating the penalties for violating the warning. A copy of the warning citation shall be retained by the police officer and attached to a written report which shall be submitted in all cases. A third copy of the warning citation shall be given to the abused person;

(e) If the person so ordered refuses to comply with the order to leave the premises or returns to the premises before the expiration of the period of separation, or if the person so ordered initiates any contact with the abused person, the person shall be placed under arrest for the purpose of preventing further physical abuse or harm to the family or household member; and

(f) The police officer shall seize all firearms and ammunition that the police officer has reasonable grounds to believe were used or threatened to be used in the commission of an offense under this section

(5) Abuse of a family or household member and refusal to comply with the lawful order of a police officer under subsection (4) are misdemeanors and the person shall be sentenced as follows:

(a) For the first offense the person shall serve a minimum jail sentence of forty-eight hours; and

(b) For a second offense that occurs within one year of the first conviction, the person shall be termed a "repeat offender" and serve a minimum jail sentence of thirty days.

Upon conviction and sentencing of the defendant, the court shall order that the defendant immediately be incarcerated to serve the mandatory minimum sentence imposed; provided that the defendant may be admitted to bail pending appeal pursuant to chapter 804. The court may stay the imposition of the sentence if special circumstances exist.

Idaho Code § 18-918 (2013)  
Domestic violence

(1) For the purpose of this section:

(a) "Household member" means a person who is a spouse, former spouse, or a person who has a child in common regardless of whether they have been married or a person with whom a person is cohabiting, whether or not they have married or have held themselves out to be husband or wife.

(b) "Traumatic injury" means a condition of the body, such as a wound or external or internal injury,

whether of a minor or serious nature, caused by physical force.

(3) (a) A household member who commits an assault, as defined in section 18-901, Idaho Code, against another household member which does not result in traumatic injury is guilty of a misdemeanor domestic assault.

(b) A household member who commits a battery, as defined in section 18-903, Idaho Code, against another household member which does not result in traumatic injury is guilty of a misdemeanor domestic battery.

(c) A first conviction under this subsection (3) is punishable by a fine not exceeding one thousand dollars (\$ 1,000) or by imprisonment in a county jail not to exceed six (6) months, or both. Any person who pleads guilty to or is found guilty of a violation of this subsection (3) who previously has pled guilty to or been found guilty of a violation of this subsection (3), or of any substantially conforming foreign criminal violation, notwithstanding the form of the judgment or withheld judgment, within ten (10) years of the first conviction, shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail for a term not to exceed one (1) year or by a fine not exceeding two thousand dollars (\$ 2,000) or by both fine and imprisonment. Any person who pleads guilty to or is found guilty of a violation of this subsection (3) who previously has pled guilty to or been found guilty of two (2) violations of this subsection (3), or of any substantially conforming foreign criminal violation or any combination thereof, notwithstanding the form of the judgment or withheld judgment, within fifteen (15) years of the first conviction, shall be guilty of a felony and shall be punished by imprisonment in the state prison for a term not to exceed five (5) years or by a fine not to exceed five thousand dollars (\$ 5,000) or by both fine and imprisonment.

(4) The maximum penalties provided in this section shall be doubled where the act of domestic assault or battery for which the person is convicted or pleads guilty took place in the presence of a child. For purposes of this section, "in the presence of a child" means in the physical presence of a child or knowing that a child is present and may see or hear an act of domestic assault or battery. For purposes of this section, "child" means a person under sixteen (16) years of age.

(5) Notwithstanding any other provisions of this section, any person who previously has pled guilty to or been found guilty of a felony violation of the provisions of this section or of any substantially conforming foreign

criminal felony violation, notwithstanding the form of the judgment or withheld judgment, and who within fifteen (15) years pleads guilty to or is found guilty of any further violation of this section, shall be guilty of a felony and shall be punished by imprisonment in the state prison for a term not to exceed ten (10) years or by a fine not to exceed ten thousand dollars (\$ 10,000), or by both such fine and imprisonment.

(6) For the purposes of this section, a substantially conforming foreign criminal violation exists when a person has pled guilty to or been found guilty of a violation of any federal law or law of another state, or any valid county, city or town ordinance of another state, substantially conforming with the provisions of this section. The determination of whether a foreign criminal violation is substantially conforming is a question of law to be determined by the court.

**Illinois.**

720 ILCS 5/12-3.2 (2013)  
Domestic battery

(a) A person commits domestic battery if he or she knowingly without legal justification by any means:

- (1) Causes bodily harm to any family or household member;
- (2) Makes physical contact of an insulting or provoking nature with any family or household member.

(b) (Effective until January 1, 2014) Sentence. Domestic battery is a Class A Misdemeanor. Domestic battery is a Class 4 felony if the defendant has any prior conviction under this Code for domestic battery (Section 12-3.2) or violation of an order of protection (Section 12-3.4 or 12-30), or any prior conviction under the law of another jurisdiction for an offense which is substantially similar. Domestic battery is a Class 4 felony if the defendant has any prior conviction under this Code for first degree murder (Section 9-1), attempt to commit first degree murder (Section 8-4), aggravated domestic battery (Section 12-3.3), aggravated battery (Section 12-3.05 or 12-4), heinous battery (Section 12-4.1) (now repealed), aggravated battery with a firearm (Section 12-4.2) (now repealed), aggravated battery with a machine gun or a firearm equipped with a silencer (Section 12-4.2-5) (now repealed), aggravated battery of a child (Section 12-4.3), aggravated battery of an unborn child (subsection (a-5) of Section 12-3.1, or Section 12-4.4 (now repealed)), aggravated battery of a senior citizen (Section 12-4.6) (now repealed), stalking (Section 12-7.3), aggravated stalking (Section 12-7.4), criminal sexual assault (Section 11-1.20 or 12-13), aggravated criminal sexual assault (Section 11-1.30 or 12-14), kidnapping (Section 10-1), aggravated kidnapping (Section 10-2), predatory criminal sexual assault of a

child (Section 11-1.40 or 12-14.1), aggravated criminal sexual abuse (Section 11-1.60 or 12-16, unlawful restraint (Section 10-3), aggravated unlawful restraint (Section 10-3.1), aggravated arson (Section 20-1.1), or aggravated discharge of a firearm (Section 24-1.2), or any prior conviction under the law of another jurisdiction for any offense that is substantially similar to the offenses listed in this Section, when any of these offenses have been committed against a family or household member. In addition to any other sentencing alternatives, for any second or subsequent conviction of violating this Section, the offender shall be mandatorily sentenced to a minimum of 72 consecutive hours of imprisonment. The imprisonment shall not be subject to suspension, nor shall the person be eligible for probation in order to reduce the sentence.

(b) (As amended by P.A. 98-187, effective January 1, 2014) Sentence. Domestic battery is a Class A Misdemeanor. Domestic battery is a Class 4 felony if the defendant has any prior conviction under this Code for violation of an order of protection (Section 12-3.4 or 12-30), or any prior conviction under the law of another jurisdiction for an offense which is substantially similar. Domestic battery is a Class 4 felony if the defendant has any prior conviction under this Code for first degree murder (Section 9-1), attempt to commit first degree murder (Section 8-4), aggravated domestic battery (Section 12-3.3), aggravated battery (Section 12-3.05 or 12-4), heinous battery (Section 12-4.1) (now repealed), aggravated battery with a firearm (Section 12-4.2) (now repealed), aggravated battery with a machine gun or a firearm equipped with a silencer (Section 12-4.2-5)(now repealed), aggravated battery of a child (Section 12-4.3), aggravated battery of an unborn child (subsection (a-5) of Section 12-3.1, or Section 12-4.4 (now repealed)), aggravated battery of a senior citizen (Section 12-4.6) (now repealed), stalking (Section 12-7.3), aggravated stalking (Section 12-7.4), criminal sexual assault (Section 11-1.20 or 12-13), aggravated criminal sexual assault (Section 11-1.30 or 12-14), kidnapping (Section 10-1), aggravated kidnapping (Section 10-2), predatory criminal sexual assault of a child (Section 11-1.40 or 12-14.1), aggravated criminal sexual abuse (Section 11-1.60 or 12-16), unlawful restraint (Section 10-3), aggravated unlawful restraint (Section 10-3.1), aggravated arson (Section 20-1.1), or aggravated discharge of a firearm (Section 24-1.2), or any prior conviction under the law of another jurisdiction for any offense that is substantially similar to the offenses listed in this Section, when any of these offenses have been committed against a family or household member. Domestic battery is a Class 4 felony if the defendant has one or 2 prior convictions under this Code for domestic battery (Section 12-3.2). Domestic battery is a Class 3 felony if the defendant had 3 prior convictions under this Code for domestic battery (Section 12-3.2). Domestic battery is a Class 2 felony if the defendant had 4 or more prior convictions under this Code for domestic battery (Section 12-3.2). In addition to any other sentencing alternatives, for any



second or subsequent conviction of violating this Section, the offender shall be mandatorily sentenced to a minimum of 72 consecutive hours of imprisonment. The imprisonment shall not be subject to suspension, nor shall the person be eligible for probation in order to reduce the sentence.

(c) Domestic battery committed in the presence of a child. In addition to any other sentencing alternatives, a defendant who commits, in the presence of a child, a felony domestic battery (enhanced under subsection (b)), aggravated domestic battery (Section 12-3.3), aggravated battery (Section 12-3.05 or 12-4), unlawful restraint (Section 10-3), or aggravated unlawful restraint (Section 10-3.1) against a family or household member shall be required to serve a mandatory minimum imprisonment of 10 days or perform 300 hours of community service, or both. The defendant shall further be liable for the cost of any counseling required for the child at the discretion of the court in accordance with subsection (b) of Section 5-5-6 of the Unified Code of Corrections. For purposes of this Section, "child" means a person under 18 years of age who is the defendant's or victim's child or step-child or who is a minor child residing within or visiting the household of the defendant or victim.

(d) Upon conviction of domestic battery, the court shall advise the defendant orally or in writing, substantially as follows: "An individual convicted of domestic battery may be subject to federal criminal penalties for possessing, transporting, shipping, or receiving any firearm or ammunition in violation of the federal Gun Control Act of 1968 (18 U.S.C. 922(g)(8) and (9))." A notation shall be made in the court file that the admonition was given.

**Indiana**

Burns Ind. Code Ann. § 35-42-2-1.3 (2013)

First of 2 versions of this section

Domestic battery [effective until July 1, 2014].

(a) A person who knowingly or intentionally touches an individual who:

- (1) is or was a spouse of the other person;
- (2) is or was living as if a spouse of the other person as provided in subsection (c); or
- (3) has a child in common with the other person;

in a rude, insolent, or angry manner that results in bodily injury to the person described in subdivision (1), (2), or (3) commits domestic battery, a Class A misdemeanor.

(b) However, the offense under subsection (a) is a Class D felony if the person who committed the offense:

(1) has a previous, unrelated conviction:

(A) under this section (or IC 35-42-2-1(a)(2)(E) before that provision was removed by P.L.188-1999, SECTION 5); or

(B) in any other jurisdiction, including a military court, in which the elements of the crime for which the conviction was entered are substantially similar to the elements described in this section; or

(2) committed the offense in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense.

(c) In considering whether a person is or was living as a spouse of another individual for purposes of subsection (a)(2), the court shall review:

(1) the duration of the relationship;

(2) the frequency of contact;

(3) the financial interdependence;

(4) whether the two (2) individuals are raising children together;

(5) whether the two (2) individuals have engaged in tasks directed toward maintaining a common household; and

(6) other factors the court considers relevant.

Burns Ind. Code Ann. § 35-42-2-1.3 (2013)

Second of 2 versions of this section

Domestic battery [effective July 1, 2014].

(a) A person who knowingly or intentionally touches an individual who:

(1) is or was a spouse of the other person;

(2) is or was living as if a spouse of the other person as provided in subsection (c); or

(3) has a child in common with the other person;

in a rude, insolent, or angry manner that results in bodily injury to the person described in subdivision (1), (2), or (3) commits domestic battery, a Class A misdemeanor.

(b) However, the offense under subsection (a) is a Level 6 felony if the person who committed the offense:

(1) has a previous, unrelated conviction:

(A) under this section (or IC 35-42-2-1(a)(2)(E) before that provision was removed by P.L.188-1999, SECTION 5); or

(B) in any other jurisdiction, including a military court, in which the elements of the crime for which the conviction was entered are substantially similar to the elements described in this section; or

(2) committed the offense in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense.

(c) In considering whether a person is or was living as a spouse of another individual for purposes of subsection (a)(2), the court shall review:

(1) the duration of the relationship;

(2) the frequency of contact;

(3) the financial interdependence;

(4) whether the two (2) individuals are raising children together;

(5) whether the two (2) individuals have engaged in tasks directed toward maintaining a common household; and

(6) other factors the court considers relevant.

Iowa Code § 708.2A (2013)

Legislative Alert: LEXSEE 2013 Ia. HF 417 -- See section 249. SYNOPSIS: AN ACT RELATING TO NONSUBSTANTIVE CODE CORRECTIONS.

Domestic abuse assault -- mandatory minimums, penalties enhanced -- extension of no-contact order.

1. For the purposes of this chapter, "domestic abuse assault" means an assault, as defined in section 708.1, which is domestic abuse as defined in section 236.2, subsection 2, paragraph "a", "b", "c", or "d".

2. On a first offense of domestic abuse assault, the person commits:

a. A simple misdemeanor for a domestic abuse assault, except as otherwise provided.

b. A serious misdemeanor, if the domestic abuse assault causes bodily injury or mental illness.

c. An aggravated misdemeanor, if the domestic abuse assault is committed with the intent to inflict a serious injury upon another, or if the person uses or displays a dangerous weapon in connection with the assault. This paragraph does not apply if section 708.6 or 708.8 applies.

d. An aggravated misdemeanor, if the domestic abuse assault is committed by knowingly impeding the normal breathing or circulation of the blood of another by applying pressure to the throat or neck of the other person or by obstructing the nose or mouth of the other person.

3. Except as otherwise provided in subsection 2, on a second domestic abuse assault, a person commits:

a. A serious misdemeanor, if the first offense was classified as a simple misdemeanor, and the second offense would otherwise be classified as a simple misdemeanor.

b. An aggravated misdemeanor, if the first offense was classified as a simple or aggravated misdemeanor, and the second offense would otherwise be classified as a serious misdemeanor, or the first offense was classified as a serious or aggravated misdemeanor, and the second offense would otherwise be classified as a simple or serious misdemeanor.

4. On a third or subsequent offense of domestic abuse assault, a person commits a class "D" felony.

5. For a domestic abuse assault committed by knowingly impeding the normal breathing or circulation of the blood of another by applying pressure to the throat or neck of the other person or by obstructing the nose or mouth of the other person, and causing bodily injury, the person commits a class "D" felony.

6. a. A conviction for, deferred judgment for, or plea of guilty to, a violation of this section which occurred more than twelve years prior to the date of the violation charged shall not be considered in determining that the violation charged is a second or subsequent offense.

b. For the purpose of determining if a violation charged is a second or subsequent offense, deferred judgments issued pursuant to section 907.3 for violations of section 708.2 or this section, which were issued on domestic abuse assaults, and convictions or the equivalent of deferred judgments for violations in any other states under statutes substantially corresponding to this section shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to the offenses defined in this section and can therefore be considered corresponding statutes. Each previous violation on which conviction or deferral of judgment was entered prior to the date of the offense charged shall be considered and counted as a separate previous offense.

c. An offense shall be considered a prior offense regardless of whether it was committed upon the same victim.

**Kansas**

K.S.A. § 21-5414 (2012)  
Domestic battery.

(a) Domestic battery is:

- (1) Knowingly or recklessly causing bodily harm by a family or household member against a family or household member; or
- (2) knowingly causing physical contact with a family or household member by a family or household member when done in a rude, insulting or angry manner.

(b) Domestic battery is:

(1) Except as provided in subsection (b)(2) or (b)(3), a class B person misdemeanor and the offender shall be sentenced to not less than 48 consecutive hours nor more than six months' imprisonment and fined not less than \$ 200, nor more than \$ 500 or in the court's discretion the court may enter an order which requires the offender to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program;

(2) except as provided in subsection (b)(3), a class A person misdemeanor, if, within five years immediately preceding commission of the crime, an offender is convicted of domestic battery a second time and the offender shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$ 500 nor more than \$ 1,000. The five days imprisonment mandated by this paragraph may be served in a work release program only after such offender has served 48 consecutive hours imprisonment, provided such work release program requires such offender to return to confinement at the end of each day in the work release program. The offender shall serve at least five consecutive days imprisonment before the offender is granted probation, suspension or reduction of sentence or parole or is otherwise released. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the offender shall be required to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program, unless otherwise ordered by the court or department of corrections; and

(3) a person felony, if, within five years immediately preceding commission of the crime, an offender is convicted of domestic battery a third or subsequent time, and the offender shall be sentenced to not less than

90 days nor more than one year's imprisonment and fined not less than \$ 1,000 nor more than \$ 7,500. The offender convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the offender has served at least 90 days imprisonment. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the offender shall be required to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program, unless otherwise ordered by the court or department of corrections. If the offender does not undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program, the offender shall serve not less than 180 days nor more than one year's imprisonment. The 90 days imprisonment mandated by this paragraph may be served in a work release program only after such offender has served 48 consecutive hours imprisonment, provided such work release program requires such offender to return to confinement at the end of each day in the work release program.

**Kentucky**

KRS § 508.032 (2013)

Assault of family member or member of an unmarried couple -- Enhancement of penalty.

(1) If a person commits a third or subsequent offense of assault in the fourth degree under KRS 508.030 within five (5) years, and the relationship between the perpetrator and the victim in each of the offenses meets the definition of family member or member of an unmarried couple, as defined in KRS 403.720, then the person may be convicted of a Class D felony. If the Commonwealth desires to utilize the provisions of this section, the Commonwealth shall indict the defendant and the case shall be tried in the Circuit Court as a felony case. The jury, or judge if the trial is without a jury, may decline to assess a felony penalty in a case under this section and may convict the defendant of a misdemeanor. The victim in the second or subsequent offense is not required to be the same person who was assaulted in the prior offenses in order for the provisions of this section to apply.

(2) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered by a court of competent jurisdiction.

**Louisiana**

La. R.S. § 14:35.3 (2013)

Domestic abuse battery

A. Domestic abuse battery is the intentional use of force or violence committed by one household member upon the person of another household member.

C. On a first conviction, notwithstanding any other provision of law to the contrary, the offender shall be fined not less than three hundred dollars nor more than one thousand dollars and shall be imprisoned for not less than thirty days nor more than six months. At least forty-eight hours of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. Imposition or execution of the remainder of the sentence shall not be suspended unless either of the following occur:

(1) The offender is placed on probation with a minimum condition that he serve four days in jail and participate in a court-approved domestic abuse prevention program, and the offender shall not own or possess a firearm throughout the entirety of the sentence.

(2) The offender is placed on probation with a minimum condition that he perform eight, eight-hour days of court-approved community service activities and participate in a court-approved domestic abuse prevention program, and the offender shall not own or possess a firearm throughout the entirety of the sentence.

D. On a conviction of a second offense, notwithstanding any other provision of law to the contrary, regardless of whether the second offense occurred before or after the first conviction, the offender shall be fined not less than seven hundred fifty dollars nor more than one thousand dollars and shall be imprisoned for not less than sixty days nor more than six months. At least fourteen days of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence, and the offender shall be required to participate in a court-approved domestic abuse prevention program. Imposition or execution of the remainder of the sentence shall not be suspended unless either of the following occur:

(1) The offender is placed on probation with a minimum condition that he serve thirty days in jail and participate in a court-approved domestic abuse prevention program, and the offender shall not own or possess a firearm throughout the entirety of the sentence.

**Maine**

(2) The offender is placed on probation with a minimum condition that he perform thirty eight-hour days of court-approved community service activities and participate in a court-approved domestic abuse prevention program, and the offender shall not own or possess a firearm throughout the entirety of the sentence.

17-A M.R.S. § 207-A (2013)

Domestic violence assault

1. A person is guilty of domestic violence assault if:
  - A. The person violates section 207 and the victim is a family or household member as defined in Title 19-A, section 4002, subsection 4. Violation of this paragraph is a Class D crime; or
  - B. The person violates paragraph A and at the time of the offense:
    - 1) Has one or more prior convictions for violating paragraph A or for violating section 209-A, 210-B, 210-C or 211-A or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 209-A, 210-B, 210-C or 211-A in another jurisdiction;
    - 2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction;or
  - 3) Has one or more prior convictions for violating Title 15, section 1092, subsection 1, paragraph B when the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4.



Violation of this paragraph is a Class C crime.

2. Section 9-A governs the use of prior convictions when determining a sentence.

**Maryland**

No Statute

**Massachusetts**

No Statute

**Michigan**

MCLS § 750.81 (2013)

Assault or assault and battery; penalties; previous convictions; exception; "dating relationship" defined.

(2) Except as provided in subsection (3) or (4), an individual who assaults or assaults and batters his or her spouse or former spouse, an individual with whom he or she has or has had a dating relationship, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$ 500.00, or both.

(3) An individual who commits an assault or an assault and battery in violation of subsection (2), and who has previously been convicted of assaulting or assaulting and battering his or her spouse or former spouse, an individual with whom he or she has or has had a dating relationship, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household, under any of the following, may be punished by imprisonment for not more than 1 year or a fine of not more than \$ 1,000.00, or both:

(a) This section or an ordinance of a political subdivision of this state substantially corresponding to this section.

(b) Section 81a, 82, 83, 84, or 86.

(c) A law of another state or an ordinance of a political subdivision of another state substantially corresponding to this section or section 81a, 82, 83, 84, or 86.

(4) An individual who commits an assault or an assault and battery in violation of subsection (2), and who has 2 or more previous convictions for assaulting or assaulting and battering his or her spouse or former spouse, an individual with whom he or she has or has had a dating relationship, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household, under any of the following, is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$ 5,000.00, or both:

(a) This section or an ordinance of a political subdivision of this state substantially corresponding to this section.

(b) Section 81a, 82, 83, 84, or 86.

(c) A law of another state or an ordinance of a political subdivision of another state substantially corresponding to

this section or section 81a, 82, 83, 84, or 86.

(5) This section does not apply to an individual using necessary reasonable physical force in compliance with section 1312 of the revised school code, 1976 PA 451, MCL 380.1312.

(6) As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

## Minnesota

Minn. Stat. § 609.2242 (2013)  
DOMESTIC ASSAULT

Subdivision 1. *Misdemeanor*. --Whoever does any of the following against a family or household member as defined in section 518B.01, subdivision 2, commits an assault and is guilty of a misdemeanor:

- (1) commits an act with intent to cause fear in another of immediate bodily harm or death; or
- (2) intentionally inflicts or attempts to inflict bodily harm upon another.

Subd. 2. *Gross misdemeanor*. --Whoever violates subdivision 1 within ten years of a previous qualified domestic violence-related offense conviction or an adjudication of delinquency is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$ 3,000, or both.

## Mississippi

Miss. Code Ann. § 97-3-7 (2013)  
Simple assault; aggravated assault; simple domestic violence; aggravated domestic violence

(3) (a) A person is guilty of simple domestic violence who:

- (i) Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another;
- (ii) Negligently causes bodily injury to another with a deadly weapon or other means likely to produce death or serious bodily harm; or
- (iii) Attempts by physical menace to put another in fear of imminent serious bodily harm when the offense is committed against a current or former spouse of the defendant or a child of that person, a person living as a spouse or who formerly lived as a spouse with the defendant or a child of that person, a parent, grandparent, child, grandchild or someone similarly situated to the defendant, a person who has a current or former dating relationship with the defendant, or a person with whom the defendant has had a biological or legally adopted child.

(b) Upon conviction, the defendant shall be punished by a fine of not more than Five Hundred Dollars (\$ 500.00) or by imprisonment in the county jail for not more than six (6) months, or both, except that upon a third or subsequent conviction of simple domestic violence under this section or a substantially similar law of another state, of the United States, or of a federally recognized Native American tribe, whether against the same or another victim, the defendant shall be guilty of a felony and sentenced to a term of imprisonment not less than five (5) nor more than ten (10) years. In determining the number of prior simple domestic violence convictions for purposes of imposing punishment under this section, the court shall disregard any conviction occurring more than seven (7) years before the simple domestic violence offense in question.

(c) In sentencing, the court shall consider as an aggravating factor whether the crime was committed in the physical presence or hearing of a child under sixteen (16) years of age who was, at the time of the offense, living within either the residence of the victim, the residence of the perpetrator, or the residence where the offense occurred.

#### Missouri

565.074 R.S.Mo. (2013)

Domestic assault, third degree--penalty

1. A person commits the crime of domestic assault in the third degree if the act involves a family or household member, including any child who is a member of the family or household, as defined in section 455.010 and:

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

#### Montana

2. Except as provided in subsection 3 of this section, domestic assault in the third degree is a class A misdemeanor.  
Mont. Code Anno., § 45-5-206 (2013)  
Partner or family member assault -- penalty.

(1) A person commits the offense of partner or family member assault if the person:

- (a) purposely or knowingly causes bodily injury to a partner or family member;
- (b) negligently causes bodily injury to a partner or family member with a weapon; or
- (c) purposely or knowingly causes reasonable apprehension of bodily injury in a partner or family member.

(2) For the purposes of Title 40, chapter 15, 45-5-231 through 45-5-234, 46-6-311, and this section, the following definitions apply:

(a) "Family member" means mothers, fathers, children, brothers, sisters, and other past or present family members of a household. These relationships include relationships created by adoption and remarriage, including stepchildren, stepparents, in-laws, and adoptive children and parents. These relationships continue regardless of the ages of the parties and whether the parties reside in the same household.

(b) "Partners" means spouses, former spouses, persons who have a child in common, and persons who have been or are currently in a dating or ongoing intimate relationship.

(3) (a) (i) An offender convicted of partner or family member assault shall be fined an amount not less than \$ 100 or more than \$ 1,000 and be imprisoned in the county jail for a term not to exceed 1 year or not less than 24 hours for a first offense.

**Nebraska**

R.R.S. Neb. § 28-323 (2013)

Domestic assault; penalties.

(1) A person commits the offense of domestic assault in the third degree if he or she:

- (a) Intentionally and knowingly causes bodily injury to his or her intimate partner;
- (b) Threatens an intimate partner with imminent bodily injury; or
- (c) Threatens an intimate partner in a menacing manner.

(2) A person commits the offense of domestic assault in the second degree if he or she intentionally and knowingly causes bodily injury to his or her intimate partner with a dangerous instrument.

(3) A person commits the offense of domestic assault in the first degree if he or she intentionally and knowingly causes serious bodily injury to his or her intimate partner.

(4) Violation of subdivision (1)(a) or (b) of this section is a Class I misdemeanor, except that for any subsequent violation of subdivision (1)(a) or (b) of this section, any person so offending is guilty of a Class IV felony.

**Nevada**

(5) Violation of subdivision (1)(c) of this section is a Class I misdemeanor.

Nev. Rev. Stat. Ann. § 33.018 (2013)

Acts which constitute domestic violence.

1. Domestic violence occurs when a person commits one of the following acts against or upon the person's spouse or former spouse, any other person to whom the person is related by blood or marriage, any other person with whom the person is or was actually residing, any other person with whom the person has had or is having a dating relationship, any other person with whom the person has a child in common, the minor child of any of those persons, the person's minor child or any other person who has been appointed the custodian or legal guardian for the person's minor child:

(a) A battery.

(b) An assault.

Nev. Rev. Stat. Ann. § 200.485 (2013)

Battery which constitutes domestic violence: Penalties; referring child for counseling; restriction against dismissal, probation and suspension; definitions.

1. Unless a greater penalty is provided pursuant to subsection 2 or NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018:

(a) For the first offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service.

The person shall be further punished by a fine of not less than \$200, but not more than \$1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur at a time when the person is not required to be at his or her place of employment or on a weekend.

**New**

**Hampshire**

**New Jersey**

**New Mexico**

No Statute

No statute

N.M. Stat. Ann. § 30-3-12 (2013)

Assault against a household member

A. Assault against a household member consists of:

- (1) an attempt to commit a battery against a household member; or
- (2) any unlawful act, threat or menacing conduct that causes a household member to reasonably believe that he is in danger of receiving an immediate battery.

B. Whoever commits assault against a household member is guilty of a petty misdemeanor.

N.M. Stat. Ann. § 30-3-15 (2013)

Battery against a household member

A. Battery against a household member consists of the unlawful, intentional touching or application of force to the person of a household member, when done in a rude, insolent or angry manner.

B. Whoever commits battery against a household member is guilty of a misdemeanor.

N.M. Stat. Ann. § 30-3-16 (2013)

Aggravated battery against a household member

A. Aggravated battery against a household member consists of the unlawful touching or application of force to the person of a household member with intent to injure that person or another.

B. Whoever commits aggravated battery against a household member by inflicting an injury to that person that is not likely to cause death or great bodily harm, but that does cause painful temporary disfigurement or temporary loss or impairment of the functions of any member or organ of the body, is guilty of a misdemeanor.

**New York**

No Statute

**North**

No Statute

**Carolina**

**North Dakota**

N.D. Cent. Code, § 12.1-17-01 (2013)  
Simple assault.

1. A person is guilty of an offense if that person:

- a. Willfully causes bodily injury to another human being; or

b. Negligently causes bodily injury to another human being by means of a firearm, destructive device, or other weapon, the use of which against a human being is likely to cause death or serious bodily injury.

2. The offense is:

b. A class B misdemeanor for the first offense when the victim is an actor's family or household member as defined in subsection 4 of section 14-07.1-01 and a class A misdemeanor for a second or subsequent offense when the victim is an actor's family or household member as defined in subsection 4 of section 14-07.1-01 and the actor has a prior conviction for simple assault under this section or an assault offense under section 12.1-17-01.1 or 12.1-17-02 involving the commission of domestic violence as defined in subsection 2 of section 14-07.1-01. For purposes of this subdivision, a prior conviction includes a conviction of any assault offense in which a finding of domestic violence was made under a law or ordinance of another state which is equivalent to this subdivision.

**Ohio**

ORC Ann. § 2919.25 (2013)

Domestic violence

(A) No person shall knowingly cause or attempt to cause physical harm to a family or household member.

(B) No person shall recklessly cause serious physical harm to a family or household member.

(C) No person, by threat of force, shall knowingly cause a family or household member to believe that the offender will cause imminent physical harm to the family or household member.

(D) (1) Whoever violates this section is guilty of domestic violence, and the court shall sentence the offender as provided in divisions (D)(2) to (6) of this section.

(2) Except as otherwise provided in division (D)(3) to (5) of this section, a violation of division (C) of this section is a misdemeanor of the fourth degree, and a violation of division (A) or (B) of this section is a misdemeanor of the first degree.

**Oklahoma**

21 Okl. St. § 644 (2013)

Assault--Assault and battery--Domestic abuse

C. Any person who commits any assault and battery against a current or former spouse, a present spouse of a former spouse, parents, a foster parent, a child, a person otherwise related by blood or marriage, a person with whom the defendant is in a dating relationship as defined by Section 60. 1 of Title 22 of the Oklahoma Statutes, an individual with whom the defendant has had a child, a person who formerly lived in the same household as the defendant, or a person

**Oregon**

**Pennsylvania**

**Rhode Island**

living in the same household as the defendant shall be guilty of domestic abuse. Upon conviction, the defendant shall be punished by imprisonment in the county jail for not more than one (1) year, or by a fine not exceeding Five Thousand Dollars (\$ 5,000.00), or by both such fine and imprisonment.

No Statute

No statute

R.I. Gen. Laws § 12-29-2 (2013)

Definitions

(a) "Domestic violence" includes, but is not limited to, any of the following crimes when committed by one family or household member against another:

- (1) Simple assault (§ 11-5-3);
- (2) Felony assaults (§§ 11-5-1, 11-5-2, and 11-5-4);
- (3) Vandalism (§ 11-44-1);
- (4) Disorderly conduct (§ 11-45-1);
- (5) Trespass (§ 11-44-26);
- (6) Kidnapping (§ 11-26-1);
- (7) Child-snatching (§ 11-26-1.1);
- (8) Sexual assault (§§ 11-37-2, 11-37-4);
- (9) Homicide (§§ 11-23-1 and 11-23-3);
- (10) Violation of the provisions of a protective order entered pursuant to § 15-5-19, chapter 15 of title 15, or chapter 8.1 of title 8 where the respondent has knowledge of the order and the penalty for its violation or a violation of a no contact order issued pursuant to § 12-29-4;
- (11) Stalking (§§ 11-59-1 et seq.);
- (12) Refusal to relinquish or to damage or to obstruct a telephone (§ 11-35-14);
- (13) Burglary and Unlawful Entry (§ 11-8-1 et seq.);
- (14) Arson (§ 11-4-2 et seq.);
- (15) Cyberstalking and cyberharassment (§ 11-52-4.2); and
- (16) Domestic assault by strangulation § 11-5-2.3.

(b) "Family or household member" means spouses, former spouses, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past three (3) years, and persons who have a child in common regardless of whether they have been married or have lived together, or if persons who are or



**South  
Carolina**

have been in a substantive dating or engagement relationship within the past one year which shall be determined by the court's consideration of the following factors:

- (1) the length of time of the relationship;
- (2) the type of the relationship;
- (3) the frequency of the interaction between the parties.

(c) "Protective order" means an order issued pursuant to § 15-5-19, chapter 15 of title 15, or chapter 8.1 of title 8.

(d) "Victim" means a family or household member who has been subjected to domestic violence.

R.I. Gen. Laws § 12-29-2 (2013)

**Definitions**

(a) "Domestic violence" includes, but is not limited to, any of the following crimes when committed by one family or household member against another:

- (1) Simple assault (§ 11-5-3);
- (2) Felony assaults (§§ 11-5-1, 11-5-2, and 11-5-4);
- (3) Vandalism (§ 11-44-1);
- (4) Disorderly conduct (§ 11-45-1);
- (5) Trespass (§ 11-44-26);
- (6) Kidnapping (§ 11-26-1);
- (7) Child-snatching (§ 11-26-1.1);
- (8) Sexual assault (§§ 11-37-2, 11-37-4);
- (9) Homicide (§§ 11-23-1 and 11-23-3);
- (10) Violation of the provisions of a protective order entered pursuant to § 15-5-19, chapter 15 of title 15, or chapter 8.1 of title 8 where the respondent has knowledge of the order and the penalty for its violation or a violation of a no contact order issued pursuant to § 12-29-4;
- (11) Stalking (§§ 11-59-1 et seq.);
- (12) Refusal to relinquish or to damage or to obstruct a telephone (§ 11-35-14);
- (13) Burglary and Unlawful Entry (§ 11-8-1 et seq.);
- (14) Arson (§ 11-4-2 et seq.);
- (15) Cyberstalking and cyberharassment (§ 11-52-4.2); and
- (16) Domestic assault by strangulation § 11-5-2.3.

(b) "Family or household member" means spouses, former spouses, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past three (3) years, and persons who have a child in common regardless of whether they have been married or have lived together, or if persons who are or have been in a substantive dating or engagement relationship within the past one year which shall be determined by the court's consideration of the following factors:

- (1) the length of time of the relationship;
- (2) the type of the relationship;
- (3) the frequency of the interaction between the parties.

(c) "Protective order" means an order issued pursuant to § 15-5-19, chapter 15 of title 15, or chapter 8.1 of title 8.

(d) "Victim" means a family or household member who has been subjected to domestic violence.

**South Dakota**  
**Tennessee**

No statute

Tenn. Code Ann. § 39-13-111 (2013)

Domestic assault.

(a) As used in this section, "domestic abuse victim" means any person who falls within the following categories:

- (1) Adults or minors who are current or former spouses;
- (2) Adults or minors who live together or who have lived together;
- (3) Adults or minors who are dating or who have dated or who have or had a sexual relationship, but does not include fraternization between two (2) individuals in a business or social context;
- (4) Adults or minors related by blood or adoption;
- (5) Adults or minors who are related or were formerly related by marriage; or
- (6) Adult or minor children of a person in a relationship that is described in subdivisions (a)(1)-(5).

(b) A person commits domestic assault who commits an assault as defined in § 39-13-101 against a domestic abuse victim.

(c) (1) A first conviction for domestic assault and a second or subsequent conviction for domestic assault committed in a manner prohibited by § 39-13-101(a)(2) and (a)(3) is punishable the same as assault under § 39-13-101, and

additionally, as provided in subdivisions (c)(2) and (c)(3) and subsection (d) of this section.

(2) A second conviction for domestic assault committed in a manner prohibited by § 39-13-101(a)(1) is punishable by a fine of not less than three hundred fifty dollars (\$350) nor more than three thousand five hundred dollars (\$3,500), and by confinement in the county jail or workhouse for not less than thirty (30) days, nor more than eleven (11) months and twenty-nine (29) days.

(3) A third or subsequent conviction for domestic assault committed in a manner prohibited by § 39-13-101(a)(1), is punishable by a fine of not less than one thousand one hundred dollars (\$1,100) nor more than five thousand dollars (\$5,000), and by confinement in the county jail or workhouse for not less than ninety (90) days, nor more than eleven (11) months and twenty-nine (29) days.

## Texas

Tex. Penal Code § 22.01 (2013)

### Assault

(a) A person commits an offense if the person:

- (1) intentionally, knowingly, or recklessly causes bodily injury to another, including the person's spouse;
- (2) intentionally or knowingly threatens another with imminent bodily injury, including the person's spouse;
- (3) intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.

(b) An offense under Subsection (a)(1) is a Class A misdemeanor, except that the offense is a felony of the third degree if the offense is committed against:

- (1) a person the actor knows is a public servant while the public servant is lawfully discharging an official duty, or in retaliation or on account of an exercise of official power or performance of an official duty as a public servant;
- (2) a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code, if:

(A) it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this chapter, Chapter 19, or Section 20.03, 20.04, 21.11, or 25.11 against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code; or

(B) the offense is committed by intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth;

## Utah

Utah Code Ann. § 77-36-1.1 (2013)

Enhancement of offense and penalty for subsequent domestic violence offenses

- (1) For purposes of this section, "qualifying domestic violence offense" means:
- (a) a domestic violence offense in Utah; or
  - (b) an offense in any other state, or in any district, possession, or territory of the United States, that would be a domestic violence offense under Utah law.
- (2) A person who is convicted of a domestic violence offense is:
- (a) guilty of a class B misdemeanor if:
    - (i) the domestic violence offense described in this Subsection (2) is designated by law as a class C misdemeanor; and
    - (ii) (A) the domestic violence offense described in this Subsection (2) is committed within five years after the person is convicted of a qualifying domestic violence offense; or
    - (B) the person is convicted of the domestic violence offense described in this Subsection (2) within five years after the person is convicted of a qualifying domestic violence offense;
  - (b) guilty of a class A misdemeanor if:
    - (i) the domestic violence offense described in this Subsection (2) is designated by law as a class B misdemeanor; and
    - (ii) (A) the domestic violence offense described in this Subsection (2) is committed within five years after the person is convicted of a qualifying domestic violence offense; or
    - (B) the person is convicted of the domestic violence offense described in this Subsection (2) within five years after the person is convicted of a qualifying domestic violence offense; or

Utah Code Ann. § 77-36-1 (2013)  
Definitions

As used in this chapter:

(4) "Domestic violence" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another. "Domestic violence" also means commission or attempt to commit, any of the following offenses by one cohabitant against another:

- (b) assault, as described in Section 76-5-102;
- (d) harassment, as described in Section 76-5-106;
- (e) electronic communication harassment, as described in Section 76-9-201;

(j) unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;  
 (k) violation of a protective order or ex parte protective order, as described in Section 76-5-108;  
 (m) possession of a deadly weapon with intent to assault, as described in Section 76-10-507;  
 (n) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle, as described in Section 76-10-508;

(o) disorderly conduct, as defined in Section 76-9-102, if a conviction of disorderly conduct is the result of a plea agreement in which the defendant was originally charged with any of the domestic violence offenses otherwise described in this Subsection (4). Conviction of disorderly conduct as a domestic violence offense, in the manner described in this Subsection (4)(o), does not constitute a misdemeanor crime of domestic violence under 18 U.S.C. Section 921, and is exempt from the provisions of the federal Firearms Act, 18 U.S.C. Section 921 et seq.;

**Vermont**

No Statute

**Virgin Islands**

No Statute

**Virginia**

Va. Code Ann. § 18.2-57.2 (2013)

Assault and battery against a family or household member; penalty

A. Any person who commits an assault and battery against a family or household member is guilty of a Class 1 misdemeanor.

**Washington**

Rev. Code Wash. (ARCW) § 10.99.020 (2013)

Definitions

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(3) "Family or household members" means spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

(4) "Dating relationship" has the same meaning as in RCW 26.50.010.

(5) "Domestic violence" includes but is not limited to any of the following crimes when committed by one family or household member against another:

- (b) Assault in the second degree (RCW 9A.36.021);
- (d) Assault in the fourth degree (RCW 9A.36.041);
- (g) Coercion (RCW 9A.36.070);
- (j) Criminal trespass in the first degree (RCW 9A.52.070);
- (k) Criminal trespass in the second degree (RCW 9A.52.080);
- (r) Violation of the provisions of a restraining order, no-contact order, or protection order restraining or enjoining the person or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.44.063, 26.44.150, 26.50.060, 26.50.070, 26.50.130, 26.52.070, or 74.34.145);
- (v) Stalking (RCW 9A.46.110); and
- (w) Interference with the reporting of domestic violence (RCW 9A.36.150).

**West Virginia**

W. Va. Code § 61-2-28 (2013)

Domestic violence -- Criminal acts.

(a) Domestic battery. --

Any person who unlawfully and intentionally makes physical contact of an insulting or provoking nature with his or her family or household member or unlawfully and intentionally causes physical harm to his or her family or household member, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in a county or regional jail for not more than twelve months, or fined not more than five hundred dollars, or both.

(b) Domestic assault. --

Any person who unlawfully attempts to commit a violent injury against his or her family or household member or unlawfully commits an act which places his or her family or household member in reasonable apprehension of immediately receiving a violent injury, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in a county or regional jail for not more than six months, or fined not more than one hundred dollars, or both.

(c) Second offense. --

Domestic assault or domestic battery.

A person convicted of a violation of subsection (a) of this section after having been previously convicted of a violation of subsection (a) or (b) of this section, after having been convicted of a violation of subsection (b) or (c), section nine of this article or subsection (a), section fourteen-g of this article where the victim was his or her current or former spouse,

current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense or who has previously been granted a period of pretrial diversion pursuant to section twenty-two, article eleven of this chapter for a violation of subsection (a) or (b) of this section, or a violation of subsection (b) or (c), section nine of this article or subsection (a), section fourteen-g of this article where the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense is guilty of a misdemeanor and, upon conviction thereof, shall be confined in a county or regional jail for not less than sixty days nor more than one year, or fined not more than one thousand dollars, or both.

A person convicted of a violation of subsection (b) of this section after having been previously convicted of a violation of subsection (a) or (b) of this section, after having been convicted of a violation of subsection (b) or (c), section nine [§ 61-2-9] of this article or subsection (a), section fourteen-g of this article where the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense or having previously been granted a period of pretrial diversion pursuant to section twenty-two, article eleven of this chapter for a violation of subsection (a) or (b) of this section or subsection (b) or (c), section nine of this article or subsection (a), section fourteen-g of this article where the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense shall be confined in a county or regional jail for not less than thirty days nor more than six months, or fined not more than five hundred dollars, or both.

**Wisconsin  
Wyoming**

No Statute

Wyo. Stat. § 6-2-501 (2013)

Simple assault; battery; penalties.

(a) A person is guilty of simple assault if, having the present ability to do so, he unlawfully attempts to cause bodily injury to another.

(b) A person is guilty of battery if he intentionally, knowingly or recklessly causes bodily injury to another person by use of physical force.

(c) Except as provided by subsection (e) of this section, simple assault is a misdemeanor punishable by a fine of not more than seven hundred fifty dollars (\$ 750.00).

(d) Except as provided by subsection (f) of this section, battery is a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$ 750.00), or both. Notwithstanding any other provision of law, the term of probation imposed by a judge under this subsection may exceed the maximum term of imprisonment established for the offense under this subsection provided the term of probation, together with any extension thereof, shall in no case exceed one (1) year.

(e) A household member as defined by W.S. 35-21-102 who is convicted upon a plea of guilty or no contest or found guilty of simple assault against any other household member, after having been convicted upon a plea of guilty or no contest or found guilty of a violation of W.S. 6-2-501(a), (b), (e) or (f), 6-2-502, 6-2-503, 6-2-504 or other substantially similar law of this or any other state, tribe or territory against any other household member, is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$ 750.00), or both.

(f) A household member as defined by W.S. 35-21-102 who commits a second or subsequent battery against any other household member shall be punished as follows:

(i) A person convicted upon a plea of guilty or no contest or found guilty of a second offense under this subsection against any other household member, after having been convicted upon a plea of guilty or no contest or found guilty of a violation of W.S. 6-2-501(a), (b), (e) through (g), 6-2-502, 6-2-503, 6-2-504 or other substantially similar law of this or any other state, tribe or territory against any other household member within the previous five (5) years is guilty of a misdemeanor punishable by imprisonment for not more than one (1) year, a fine of not more than one thousand dollars (\$ 1,000.00), or both. Notwithstanding any other provision of law, the term of probation imposed by a court under this paragraph may exceed the maximum term of imprisonment established for this offense under this paragraph provided the term of probation, together with any extension thereof, shall in no case exceed two (2) years;

(g) A person is guilty of unlawful contact if he:

(i) Touches another person in a rude, insolent or angry manner without intentionally using sufficient physical force to cause bodily injury to another; or

(ii) Recklessly causes bodily injury to another person.



(h) An unlawful contact under subsection (g) of this section is a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$ 750.00) or both.

David B. Goldstein

Chief of Police

Franklin Police Department

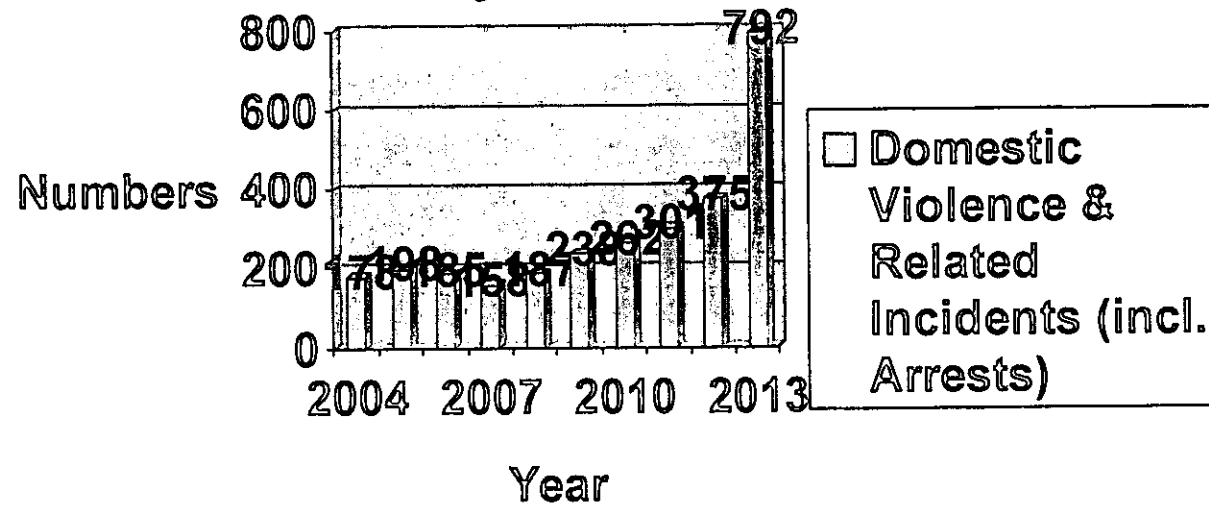
SB 318

- Good Morning
- The NH Association of Chiefs of Police supports passage of this bill
- Many will present cogent and experienced arguments concerning the matter at hand... much better than I
- For my presentation today, I would like to suggest that this bill is *evolutionary* in nature
- I have been around long enough to remember we thought we handled domestic violence well when we convinced one of the parties to leave the residence for the night
- We did not care what happened the next day
- We were incensed when victims did not follow our advice
- On one particular occasion, while a Derry police officer, I took a report from a woman whose husband left her looking as if she had gone 10 rounds with Muhammad Ali
- One month later-to the day-she came back to the PD and told me she had fallen down the stairs (among her injuries, she had been thrown down a flight of stairs)
- When she refused <sup>to</sup> change back to her original complaint, I arrested her for filing a false report
- It has taken decades for us to realize just how ludicrous we were
- As a member of the NHSP MCU, I was involved in the investigations of more than 100 homicides
- I can attest to the fact that at least 50% were domestic in nature in line with the national average
- Throughout my career I have seen domestics perpetrated with
  - Handguns
  - Rifles
  - Shotguns
  - A black powder rifle
  - An axe
  - Knives
  - Suitcases
  - Baseball bats
  - Softball bats
  - Shod feet
  - Open hands

- Clenched fists
  - Curtain cords
  - Butcher knives
  - A Champaign bottle
  - Manual strangulation
  - Suffocation
  - Prescription drugs
  - An infant swung like a club
- Unfortunately, I could regale you with stories that would leave you scratching your head wondering how people do what they do to other people. Especially those they claim to love
  - My oldest homicide victim was in her 80s, my youngest was 10 weeks old
  - I purposely use the term “my” because in such cases there is definite buy-in
  - The 10 week old’s sisters, also murdered as a result of the same domestic violence incident, were 1 ½ and 2 ½ years old
  - What heinous acts could children commit that would result in their deaths literally at the hands of their natural father?
  - And with these murders, each child looked into her father’s eyes as he smothered them with his bare hands
  - What were they thinking as their father murdered them?
  - This bill serves to make it possible for law enforcement to charge perpetrators of domestic violence with a logical, specific and consolidated statute
  - The complexity and disjointed nature of present statutes are exemplified by the included PPT training police officers undergo concerning domestic violence
  - With this bill, the police will not have to search for the appropriate crime and risk losing a valid case
  - In addition, this bill will facilitate the ability to gather and analyze domestic violence data in order to forestall future occurrences of these crimes
  - By way of example, in Franklin we are in the fourth year of a federal grant administered through the AG’s office that has given us the opportunity to investigate, intervene and educate victims and members of the community relative to domestic violence
    - Lethal Assessment Program (FPD/Merrimack County police departments-pilot study)
    - A change in FPD approach to domestic violence exemplified in enclosed graph
  - Not many bills that are passed have such far reaching implications as this one...in fact, this bill gives us the singular opportunity to save lives
  - Thank you

# Domestic Violence Statistics

## City of Franklin

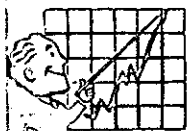


*Attorney General's  
Domestic Violence Protocol  
for Law Enforcement  
Presenting for Police  
Standards & Training Are:*

Chief Tim Russell

&

Sally Wuellenweber



ADDITIONAL INFORMATION:  
This book is designed to be used as a reference for law enforcement officers and is not a substitute for training. It is not a legal authority and should not be used as such. It is a guide only and should be used in conjunction with the law and the policies of the department.

*Domestic Violence Protocol –  
What Is It?*

- ❖ Each of you have been provided a copy of the protocol.
- ❖ It is **not** a standard operating procedure, rule or regulation.
- ❖ It is a best practices manual. It includes step by step instructions how to best handle domestic abuse calls.
- ❖ It also includes various sample forms you can utilize, including an investigation checklist.

*The Statute Covering Domestic  
Violence Laws is RSA 173-B*

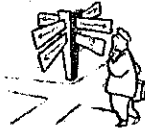
- ❖ In RSA 173-B:1, entitled "Definitions": Abuse is defined as the commission of or **attempted commission** of one or more of the following acts by a family or household member or current or former sexual or intimate partner and where such conduct constitutes a **credible threat** to the victim's safety:

*Domestic Violence Crimes as  
defined by RSA 173-B:1*

- ❖ Assault or reckless conduct - RSA 631:1-3
- ❖ Criminal threatening - 631:4
- ❖ Sexual Assault - 632-A:2-A:5
- ❖ Interference with freedom - 633:1 through 633:3-a
- ❖ Destruction of property - 634:1, 2
- ❖ Unauthorized entry - 635:1, 2
- ❖ Harassment - 644:4

### *Six Types of Civil Protective Orders*

- ❖ Telephonic
- ❖ Temporary
- ❖ Final
- ❖ Foreign
- ❖ Divorce RSA 458:16
- ❖ Stalking 633:3-a



### *Who May File for a Civil Protective Order*

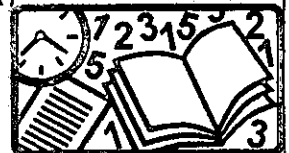
- ❖ Spouses
- ❖ Ex-spouses
- ❖ Persons co-habiting
- ❖ Persons who co-habitated but who no longer co-habitate
- ❖ Parents of the defendant
- ❖ Persons related to the defendant by consanguinity (blood)
- ❖ Persons related to the defendant by affinity (marriage)
- ❖ Former intimate partners
- ❖ Current intimate partners

### *Intimate Partners*

Persons currently or formerly involved in romantic relationship, whether or not such relationship was ever consummated sexually.

### *Domestic Violence Civil Protective Orders*

- ❖ The Four we work with the most are:
- ❖ Emergency/Telephonic Orders
- ❖ Temporary Orders
- ❖ Final Orders
- ❖ Stalking (temporary & final)



### Emergency Telephonic Orders

- ❖ District, superior and family court judges may issue this order when the court is not open for business.
- ❖ This usually includes nights, weekends and holidays.
- ❖ There are established on call lists for Judges which your department should have a copy of.

## Emergency Telephonic Order Procedure

- ❖ Interview the victim and have him or her prepare a written affidavit explaining the abuse.
- ❖ Call and identify yourself to the judge.
- ❖ The victim should be present.
- ❖ Read the victim's allegation of abuse outlined in the affidavit.

[illegible]

# Emergency Telephonic Order

- ❖ If the judge determines that the victim is in danger of being abused by the defendant:
  - Check the appropriate box on the order.
  - Read to the judge each protective stipulation.
  - Check all the stipulations the judge indicates

### *Definition of Contact*

- ❖ 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.

### *Emergency Telephonic Order Procedure*

- ❖ At the conclusion of the conversation with the judge, sign the order where indicated.
- ❖ Provide the victim with a copy of the order.
- ❖ Explain to the victim that the defendant will also receive a copy of the allegations contained in the order.

### *Emergency Telephonic Order Procedure*

- ❖ BE SURE to explain that he/she must go to the court and apply for a TEMPORARY CIVIL ORDER OF PROTECTION by the close of the next business day if he/she wishes the order to continue.
- ❖ Provide information regarding the local crisis center and the location of the appropriate court to apply for a temporary civil protective order.

### *Emergency Telephonic Order Procedure*

- ❖ The law requires that you serve this order "without delay".
- ❖ Attempts to find the defendant at home; work; relatives homes; friends homes or know hangouts.
- ❖ Document all attempts to locate and serve the defendant.
- ❖ Fax a copy of the telephonic emergency order to the Department of Safety and court of jurisdiction.



### *Emergency Telephonic Orders*

- ❖ After service, file the return of service at the opening of the next business day of the court of record.
- ❖ Officers **shall not make the determination** whether or not a petitioner is eligible for an emergency protective order – this is solely a judicial decision.



### *Temporary Civil Protective Orders*

- ❖ This is usually the first order applied for by victims.
- ❖ Application is made at the district, superior or family court in the jurisdiction where either the plaintiff (victim) or the defendant reside.
- ❖ It is also the order that must be applied for, during the next court business day, if the victim was issued an emergency telephonic order and the victim continues to desire protection.

### *Temporary Civil Protective Orders*

- ❖ In many cases the police are not involved in any active criminal investigation against either party and this may be the first information that your agency has received regarding alleged abuse.
- ❖ Many times victims go to the court to apply for a protection order on their own.
- ❖ They also may have been advised on how to proceed through an advocacy program or hot line.

### *Temporary Orders*

- ❖ These are ex-parte orders. The victim prepares a written affidavit which is reviewed by the Judge.
- ❖ The Judge may or may not ask the victim for additional information.
- ❖ If, based on the affidavit, the Judge believes the victim is **"in danger of being abused"** by the defendant, the order will be issued.

## Temporary Protective Orders

- ❖ The court will either notify the local police department that they have an order or they will fax a copy to the agency that has jurisdiction.
- ❖ Upon receipt of an order, the affidavit, protective stipulations and other information should be reviewed carefully as an officer safety issue.

## Temporary Civil Protective Orders

- ❖ **ALSO**, be sure to carefully review the gun removal and other provisions of the order. Do not remove unless specifically ordered by the judge in the emergency or temporary orders.
- ❖ The law requires that these orders **"be served without delay"**.

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### *Temporary Civil Protective Orders*

- ❖ Every reasonable effort should be made to immediately locate the defendant which includes checking his home, place of employment or other known hangouts.
- ❖ Officers should log or make a note of every attempt to locate the defendant.

### *Temporary Protective Orders*

- ❖ This order can be in effect for up to 30 days. A court date for a final hearing is included as part of the order.
- ❖ Upon being served the defendant can request an "emergency hearing" to the court. That hearing must be held not less than 3 nor more than 5 working days from the date of the request.

### *In Hand Service of Orders*

- ❖ Verify the defendant's date of birth and social security number by means of a driver's license or some other picture identification.
- ❖ Thoroughly explain the order's content and its penalties to the defendant.
- ❖ Confirm that the defendant understands the order.
- ❖ Insure that the defendant is aware of the scheduled hearing date.

### *When Serving The Order*

- ❖ Notify the defendant that an emergency hearing can be held within 5 business days if requested in writing.
- ❖ Observe and document the defendant's response to service including statements made, body language, sobriety, etc.

## When Serving The Order

- ❖ Ensure that the victim's address **IS NOT DIVULGED** to the defendant.
- ❖ Make sure the location of domestic violence shelters **are not divulged** to the defendant.

## Service Of Orders

- ❖ All returns of service, including service of emergency orders must be returned to the issuing court.
- ❖ Once served, the Administrative Office of the Courts will enter the information regarding the orders into the state database which shall be made available to police and sheriff departments statewide.

THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH

Division Four of Superior Court County  
100 State House Ave.  
Hartford, NH 03103

Telephone: (603) 281-2740  
TTY: (603) 281-2740  
Fax: (603) 281-2740

**DOMESTIC VIOLENCE OR STALKING RETURN OF SERVICE**  
(Form DS-010) (Rev. 12/01)

Case Number: \_\_\_\_\_ Case (Number(s)): \_\_\_\_\_ PNO: \_\_\_\_\_

Plaintiff: \_\_\_\_\_ Defendant: \_\_\_\_\_

☐ Notified ☐ Defendant's DPO  
☐ Observed ☐ Defendant's DPO

Service was completed on this within the period \_\_\_\_\_  
by giving it to \_\_\_\_\_ of \_\_\_\_\_, or to \_\_\_\_\_, an attached copy of  
the attached order. Identity of the order was verified by means of:  
☐ Driver's License ☐ Birth Certificate ☐ Other Identification  
☐ Firearms and ammunition were not returned. (Specify): \_\_\_\_\_

☐ Dandy weapons were not returned. (Specify): \_\_\_\_\_

Date: \_\_\_\_\_

Signature of Plaintiff: \_\_\_\_\_

Signature of Defendant: \_\_\_\_\_

Signature of Plaintiff's Attorney: \_\_\_\_\_

Signature of Defendant's Attorney: \_\_\_\_\_

Signature of Court Officer: \_\_\_\_\_

☐ Petition ☐ Temporary Order ☐ Final Order ☐ Other \_\_\_\_\_

☐ Notice of Interstate Enforcement and Compliance with VAWA for Use with Temporary Order

☐ Notice of Interstate Enforcement and Compliance with VAWA for Use with Final Order

Version 1.0 (12/01)

## Final Orders

- ❖ At the final hearing the victim must establish, by a preponderance of evidence, that **the defendant abused the victim** within the meaning of RSA 173-B:1 and that the defendant poses a **credible threat** to the victim's safety.

- ❖ The protective stipulations will essentially mirror the protective stipulations outlined in the temporary order.
- ❖ HOWEVER-----
- ❖ **Upon issuance of a final order, firearms and ammunition MUST be surrendered. The Judge has NO STATUTORY DISCRETION.**

THE STATE OF NEW HAMPSHIRE JUDICIAL BRANCH			
<b>DOMESTIC VIOLENCE</b>		Case Number: _____	
<b>FINAL ORDER OF PROTECTION</b>		PFO Number: _____	
		County: <u>Washington</u>	
		Court: Court # <u>00000328</u>	
		County: <u>Sherborn</u>	
		Address: <u>1710 Old Orchard Garage Building - Box 9</u>	
		City: <u>Bedford, NH 03223</u>	
<b>PLAINTIFF IDENTIFIERS</b>			
PLAINTIFF:	Maiden:	Last:	Middle:
J. J.			
City:		State:	
		<input type="checkbox"/> VT <input type="checkbox"/> NH <input type="checkbox"/> ME <input type="checkbox"/> RI <input type="checkbox"/> CT <input type="checkbox"/> MA <input type="checkbox"/> NY <input type="checkbox"/> NJ <input type="checkbox"/> PA <input type="checkbox"/> OH <input type="checkbox"/> IN <input type="checkbox"/> IL <input type="checkbox"/> MI <input type="checkbox"/> WI <input type="checkbox"/> MN <input type="checkbox"/> IA <input type="checkbox"/> MO <input type="checkbox"/> NE <input type="checkbox"/> KS <input type="checkbox"/> OK <input type="checkbox"/> AR <input type="checkbox"/> LA <input type="checkbox"/> MS <input type="checkbox"/> AL <input type="checkbox"/> GA <input type="checkbox"/> SC <input type="checkbox"/> NC <input type="checkbox"/> VA <input type="checkbox"/> WV <input type="checkbox"/> KY <input type="checkbox"/> TN <input type="checkbox"/> MS <input type="checkbox"/> AL <input type="checkbox"/> GA <input type="checkbox"/> SC <input 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## *FAXBACK SYSTEM FOR CIVIL PROTECTIVE ORDERS*

- ❖ The N.H. Administrative Office of Courts (AOC) makes copies of protective orders available 24/7 to law enforcement official in the country who has access to the national or state registries and that has a fax machine.
- ❖ Law enforcement agencies must register for the fax back system through the AOC.

## *Mandatory Firearms Relinquishment*

- ❖ Defendants must relinquish firearms and ammunition in their POSSESSION, OWNERSHIP OR CONTROL.
- ❖ When so ordered in an emergency or temporary civil protective order.
- ❖ After the issuance of a final civil protective order.
- ❖ Upon arrest for a violation of a civil protective order.
- ❖ Upon arrest for abuse as directed by RSA 173-B:10.

## *Firearm Defined*

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



## *Deadly Weapons*

- ❖ For the purposes of this law firearms and deadly weapons are defined SEPARATELY.
- ❖ In any civil protective order the court may order any deadly weapons seized that the defendant USED or THREATENED TO USE during a domestic violence incident.
- ❖ These deadly weapons will be specifically noted and listed on protective order.

### *Mandatory Firearms Relinquishment*

- ❖ Friends relatives or other third parties **ARE NOT** permitted to store firearms and ammunition during the term of the order.
- ❖ If an officer demonstrates probable cause to believe that a defendant has not relinquished firearms, ammunition or other deadly weapons referenced to in the protective order, the court may issue a search warrant authorizing the officer to seize the items.

### *Mandatory Firearms Relinquishment*

- ❖ Note: If a search warrant is executed and firearms or ammunition are found, the defendant **must also be arrested** for violation of a protective order if the order directs the defendant to relinquish any firearms and ammunition owned, possessed or in the control of the defendant.

### *Firearms Return*

- ❖ The law enforcement agency shall maintain possession of the firearms, ammunition and deadly weapons until the court issues a **WRITTEN** order directing that they be relinquished and specifying the person to whom they will be relinquished.

### *Responding to Domestic Abuse calls - Officer Safety Concerns*

- ❖ In the majority of cases the parties know that police are responding.
- ❖ A minimum of two officers should respond, if possible. At least insure back-up is on the way, if possible.
- ❖ Obtain all available information from dispatch and notify upon arrival.

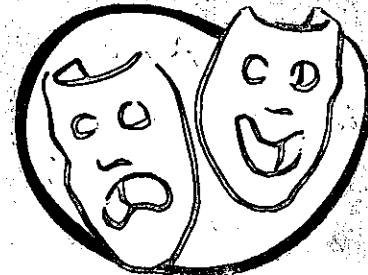


### *Officer Safety Concerns*

- ❖ Avoid the use of sirens and emergency lights.
- ❖ The first minute after arrival is the most dangerous.
- ❖ Be alert to vehicles and people leaving the immediate area.
- ❖ Remember the threat to your safety may be waiting outside.

### *Officer Safety Concerns*

- ❖ STOP, LOOK and LISTEN to what's happening inside



### *On-Scene Investigations Search Warrant?*

- ❖ In the absence of exigent circumstances, the officer has no right to enter, but shall make reasonable efforts to ascertain the well-being of those present.
- ❖ Officers should seek to have one of the parties grant them permission to enter the residence to ensure that all parties therein are safe and not in need of medical treatment.
- \* Frankly, the lack of exigent circumstances is RARE.

### *911 Call*

- ❖ The 911 call itself may in some instances support a determination of exigent circumstances or include permission to enter.
- ❖ The dispatch tape may also be admissible evidence in court proceedings as excited utterances.

### *On-Scene Investigation*

- ❖ Officers should make detailed observations of the scene and those present. (See **Domestic Abuse Investigation Check List**)
- ❖ Fully interview victim and assailant.
- ❖ Be alert to incriminating statements and excited utterances.
- ❖ Secure written statements before leaving the scene.

### *On-Scene Investigation*

- ❖ Ask about previous abuse, frequency and severity.
- ❖ Determine past history of abuse.
- ❖ Determine if a protective order is in effect.
- ❖ **An officer may rely on the statement of the person protected by the order that the order remains in effect.**

### *On-Scene Investigation*

- ❖ If Suspect is present, but Not In Custody-  
Be alert to:
  - Admissions made
  - Suspect's knowledge of protective order
  - Excited Utterances
- ❖ **MAY ALL BE ADMISSABLE**
- ❖ Arrest requires:
  - Miranda Warnings

### *On-Scene Investigation*

- ❖ If suspect has fled, all reasonable attempts should be made to apprehend.
- ❖ Check place of employment, relatives, friends, known hangouts, etc.
- ❖ Children should be interviewed as potential victims or witnesses.
- ❖ Witnesses should be fully interviewed as soon as possible.

## *On-Scene Investigation*

- ❖ Collect and preserve all physical evidence, including evidence of injuries, articles that substantiate the case, such as weapons, torn clothing, etc.
- ❖ If assaulted, encourage victim to seek emergency room care.
- ❖ Request victim to sign medical release form.

## *Photographs*

- ❖ Make a special effort to minimize the potential damaging effects that photography could have on the victim.
- ❖ Do not surprise the victim with the camera.
- ❖ Explain why you are taking photographs and what purpose they have.
- ❖ Just like any other crime scene, a police photographer should take the photos, if possible.

## *Photographs*

- ❖ Regardless whether there was injury to the victim's face or not, an initial photo should be taken showing the victim's face for identification purposes.
- ❖ Overall distance photos should be taken to identify the injury location in relation to the rest of the body, while close up shots will emphasize the injuries.

## *Photographs*

- ❖ Injuries such as bruising will be better demonstrated by using photos taken at time intervals.
- ❖ Initial on-scene photographs.
- ❖ Additional photos of bruises should be taken 24 to 48 hours after the time of the assault.
- ❖ Photos of the home or crime scene should be taken at once, if indicated.

## *Photographs*

- ❖ Investigative photographs by police are important.
- ❖ Photographs taken by medical personnel become part of the medical records and cannot be released to investigators without proper releases.

## *Photographs*

- ❖ All photographs should be marked with:
  - Photographer's initials
  - Date & time taken
  - Victim's name & age
  - Department case number

**Do not write the victim's address on any photos or any other documents.**

## *On-Scene Investigation*

- ❖ All physical evidence collected should be noted in reports and processed as in other criminal investigations.



## *Victim Notification*

- ❖ It is statutorily mandated that all officers must give victims of abuse immediate and adequate notice of their right to go to the district, superior or family court to file a petition asking for protective orders against the abusive person and to seek a private criminal complaint. (RSA 173-B:11)

### *Victim Notification*

- ♦ Officers shall give the victim immediate and written notice of the rights of victims and of the remedies and services available to victims of domestic violence. (RSA 173-B:10 (d))

(See sample form in the protocol).

The NH Attorney General's office has pre-printed Victim Notification Forms available for free to all law enforcement agencies.

### *The Arrest Decision*

- ♦ If an officer decides not to arrest, where such arrest is lawful, (**WHICH IS A REALLY BAD DECISION**) the officer **must include in his/her report** of the incident, a detailed explanation of the reasons the arrest was not made.

### *The Arrest Decision*

- ♦ If an assault or other act of abuse has taken place, **AND NO CIVIL PROTECTIVE ORDER IS IN PLACE:**

As stated, it is the officer's decision whether an arrest should be made.

However, the officer should not rely on the victim's opposition to the arrest and should emphasize to the victim and the defendant that the action initiated is the State's action NOT an action of the victim.

### *The Arrest Decision*

- ♦ When a defendant violates either a temporary or permanent civil protective order issued or enforced under 173-B the officer **SHALL ARREST** the defendant and ensure the defendant is **detained until arraignment**.
- ♦ This includes protective orders contained within a divorce decree issued under RSA 458:16.
- ♦ **YOU HAVE NO ARREST DISCRETION WHEN A CIVIL PROTECTIVE ORDER EXISTS.**

### *Without a Warrant 12 Hour Exception*

- ♦ Arrest without a warrant is lawful whenever:
  - An officer has probable cause to believe the person to be arrested **has within the past 12 hours COMMITTED ABUSE** as defined in 173-B:1,1 against a person eligible for protection

### *Without a Warrant 12 Hour Exception – Civil Orders*

- When the officer has probable cause to believe that person be arrested has within the last 12 hours, violated any temporary or permanent civil protective order issued under 173-B, 633:3a (Stalking) or 458:16 (Divorce Stipulations).

### *The Arrest Decision*

- ♦ Upon expiration of the 12 hour time frame or before if possible, **the officer should seek a warrant for the suspect's arrest.**



### *The Arrest Decision*

- ♦ Protective orders are civil orders designed to protect the victim from the defendant.
- ♦ The prohibited actions apply **ONLY** to the defendant.
- ♦ **It is therefore not possible for the victim to be in violation of an order.** Under no circumstances should an officer threaten to arrest the victim for violating a protective order.

### *Primary [Predominant] Physical Aggressor*

- ❖ When an 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 whom the officer believes to be the primary [predominant] physical aggressor.**

### *Determining Factors*

- ❖ The intent of RSA 173-B:10 is to protect victims of domestic violence.
- ❖ The relative degree of injury or fear exhibited by either party.
- ❖ Any history of domestic abuse between these persons.

### *Other Considerations*

- ❖ The strength and size of each of the persons.
- ❖ Who originated the emergency call.
- ❖ Defensive injuries vs offensive injuries.
- ❖ Criminal records of the parties.
- ❖ Prior police contacts.
- ❖ Observations and locations of crime scenes.

### *Police Officers as Perpetrators*

- ❖ He or she should not be accorded special treatment. If an arrest would otherwise be warranted it should be carried out without regard to their employment.
- ❖ If any police department firearms are relinquished refer to this protocol's policy for retrieval.

### *Police Officers as Perps*

- ❖ The International Association of Chiefs of Police has published a model policy regarding police officer perpetrated domestic violence. The sample policy is free and agencies nationwide have been encouraged to adopt a similar policy.

### *When Arrest Is Not Possible*

- ❖ If no crime has been committed or there is no probable cause for arrest and there are no safety concerns, officers should:
  - Attempt to mediate the dispute.
  - Refer the parties to appropriate community counseling service.
  - Suggest a temporary separation or cooling-off period.

### *When Arrest Is Not Possible*

- ❖ Officers are still obligated to advise the victims of his/her victim rights under RSA 173-B:10 and 173-B:11.
- ❖ Officers should also discuss safety concerns and plans with the victim.
- ❖ Officers should encourage victims to call their local crisis centers so that personal safety and other options can be assessed by a trained advocate.

### *When Arrest Is Not Possible*

- ❖ Officers should advise the victim that although the defendant was not arrested, he/she may still be eligible for a protective order.
- ❖ **Remember** – the victim's perception of your willingness to help assist and protect him/her is often the determining factor in the victim's willingness to seek further assistance from the criminal justice system.



### *Emergency Care & 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 officer or the officer's supervisors or employer if the care and assistance was rendered in good faith, **unless the act or omission was a result of gross negligence or willful misconduct.**

### *Bail Issues*

- ❖ Bail will usually be determined by a bail commissioner.
- ❖ If an emergency protective order has not been issued, the officer should request the bail commissioner or Judge to issue a **CRIMINAL PROTECTIVE ORDER** to ensure the victim's safety.
- ❖ These restrictions in this order may include any and all protective provisions under 173-B.

### *Criminal Protective Order*

- ❖ This order **DOES NOT** offer the same remedies as the Civil Protective Orders.
- ❖ This order is a **BAIL ORDER**.
- ❖ If violated it is civil contempt of court.
- ❖ A possible criminal charge could be Breach of Bail Conditions.
- ❖ However, none of the remedies outlined in RSA 173-B apply.
- ❖ These orders are covered by the bail statute which is RSA 597.

### *Bail Issues*

- ❖ When a **CIVIL** protective order is in place:
  - If a defendant is arrested the officer **SHALL** ensure that the defendant is detained until arraignment. **This means the defendant IS NOT entitled to bail and must be held until arraigned before a Judge.**

### *Civil Standbys*

- ❖ Civil standbys for the purpose of retrieving personal property by both the defendant and the victim are required and outlined by statute.
- ❖ Remember – the provisions of the protective order remain in effect while the civil standby is taking place.

### *Civil Standbys*

- ❖ **Under no circumstances** can the defendant be allowed access to the residence without the specific consent of the victim and the physical presence of an officer.
- ❖ Stay with defendant, at all times, when retrieving and removing the property specified.

### *Civil Standbys*

- ❖ If both parties are present, if possible, have 2 officers present. One to remain with the defendant and one with the victim.
- ❖ If there is a court order allowing a large amount of personal property to be removed, such as furniture, and it is apparent it will take several hours, it is recommended that the agency seek guidance from the court relative to cost reimbursement or alternative plans.

### *Domestic Violence Protocol*

- ❖ There is an Attorney General's protocol available at every law enforcement agency in this state.
- ❖ Learn where your agency keeps it and refer to it when necessary.
- ❖ Remember – it is a guide. You should always follow your agency rules, regulations or policies.

### *Remember*

- ❖ Domestic abuse is about POWER AND CONTROL it IS NOT about anger management.
- ❖ It is not about violence, the violence and other forms of abuse are only a means to an end and that end is to control the victim in every aspect of their life.

### *Remember*

- ❖ Statistically, the victim is in the MOST DANGER when he/she leaves, NOT while they are living with their abuser.
- ❖ You can make a difference, save a life and stop an injury.
- ❖ You may only get one chance to demonstrate to a victim that you and the system cares – listen – show compassion.

### *Remember*

- ❖ You swore an oath to PROTECT & SERVE.
- ❖ You began your career because you wanted to help people. Don't lose sight of that goal.



## Lethality Assessment

### Lethality Assessment Program

for  
**First Responders**

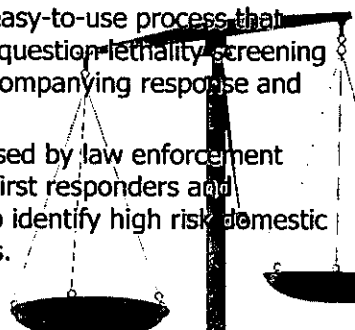
In-Service Curriculum

for  
**Law Enforcement Officers**

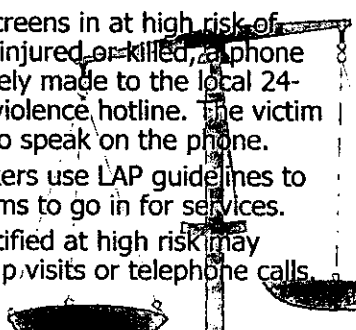
2009



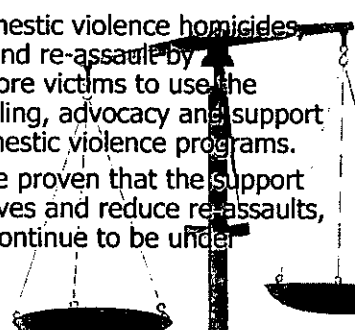
## WHAT IS THE LETHALITY ASSESSEMENT PROGRAM

- The LAP is an easy-to-use process that features an 11 question lethality screening tool and an accompanying response and protocol tool.
  - \*\*The LAP is used by law enforcement officers, other first responders and professionals to identify high risk domestic violence victims.
- 

## THE LAP

- \*\* If a victim screens in at high risk of being seriously injured or killed, a phone call is immediately made to the local 24-hour domestic violence hotline. The victim is encouraged to speak on the phone.
  - \*\* Hotline workers use LAP guidelines to encourage victims to go in for services.
  - \*\* Victims identified at high risk may receive follow-up visits or telephone calls.
- 

## WHAT IS THE GOAL?

- To prevent domestic violence homicides, serious injury and re-assault by encouraging more victims to use the shelter, counseling, advocacy and support services of domestic violence programs.
  - \*\* Studies have proven that the support services save lives and reduce re-assaults, yet programs continue to be under utilized.
- 

## RESEARCH & STUDIES

- There is a 60% reduction in risk of severe assault when victims utilize domestic violence services.

9th International Family Violence  
Research Conference, 2003

- Abused women who used domestic violence services were almost never the victim of murder or attempted murder.

Jacquelyn Campbell, 2003

## RESEARCH & STUDIES

- Only 4% of victims of actual or attempted intimate partner homicide utilized domestic violence programs. Jacquelyn Campbell, 2004
- 28% of domestic violence victims identified in Maryland by the LAP as high risk went in for services. None have been killed or seriously injured.

■ Maryland Network Against Domestic Violence, LAP  
Statistical Report, 2006-2008

## HOW IT DIFFERS FROM OTHER LETHALITY ASSESS. METHODS

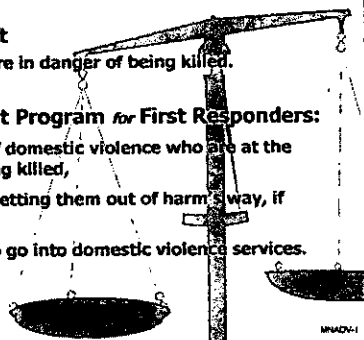
- It is the only program of its kind in the nation that makes use of screening tool and an accompanying response and referral protocol.
- It improves collaboration and services provided by first responders, domestic violence programs and other professionals.

## HOW IT DIFFERS

- It was recognized by Harvard University's Ash Institute as one of the "Top 50" Innovations in American Government programs for 2008.

## Background Definitions

- **Lethality Assessment**  
Identifies victims who are in danger of being killed.
- **Lethality Assessment Program for First Responders:**
  - (1) Identifies victims of domestic violence who are at the greatest risk of being killed,
  - (2) for the purpose of getting them out of harm's way, if necessary, and
  - (3) encourages them to go into domestic violence services.

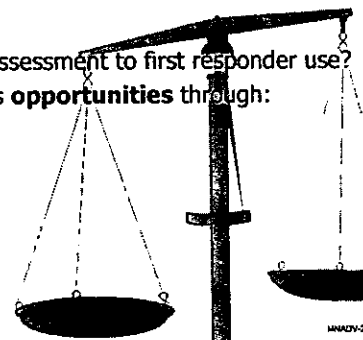


MMADV-1

## Background Why Lethality Assessment?

Why apply lethality assessment to first responder use?  
Because it represents **opportunities** through:

- Numbers
- Information
- Presence



MMADV-2

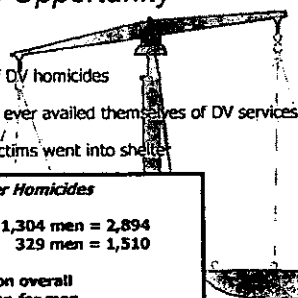
## Background Why Lethality Assessment? Numbers and Opportunity

- 1,500 DV fatalities a year in U.S.
- Police previously on scene in 50% of DV homicides
- Only 4% of DV homicide victims had ever availed themselves of DV services
- Re-assault dropped by 60% when victims went into shelter

### Intimate Partner Homicides

1976: 1,587 women + 1,304 men = 2,894  
2005: 1,181 women + 329 men = 1,510

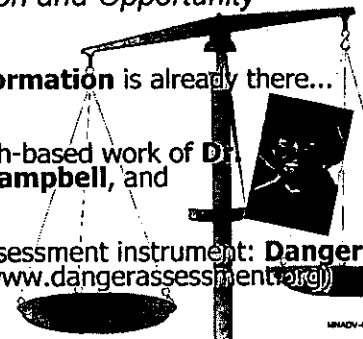
48% reduction overall  
75% reduction for men  
26% reduction for women



MMADV-3

## Background Why Lethality Assessment? Information and Opportunity

- Because the **information** is already there...
- Through research-based work of Dr. Jacquelyn C. Campbell, and
- Her validated assessment instrument: **Danger Assessment** ([www.dangerassessment.org](http://www.dangerassessment.org))



MMADV-4

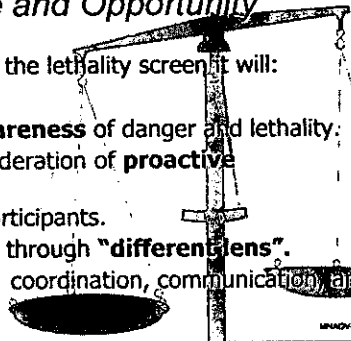
## Background

### Why Lethality Assessment?

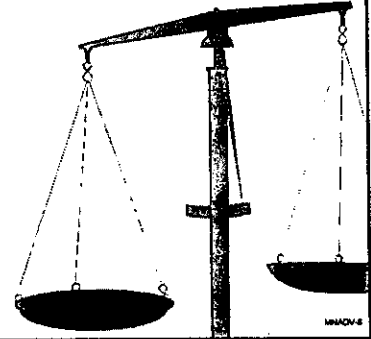
#### *Presence and Opportunity*

Just by administering the lethality screen it will:

- Cause **greater awareness** of danger and lethality;
- Cause greater consideration of **proactive interventions**.
- **Educate** system participants.
- Allow victims to see through **"different lens"**.
- Enhance the **3 C's**: coordination, communication, and cooperation.



## Video Notes

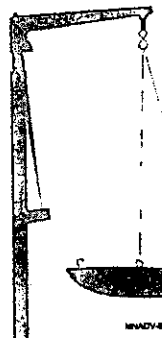


## How the LAP Works

### Lethality Screen for First Responders

**DOMESTIC VIOLENCE LETHALITY SCREEN FOR FIRST RESPONDERS**

1. Is there a history of domestic violence?	Yes/No
2. Has there been any recent contact with the perpetrator?	Yes/No
3. Has there been any recent threats of harm?	Yes/No
4. Has there been any recent stalking?	Yes/No
5. Has there been any recent harassment?	Yes/No
6. Has there been any recent physical assault?	Yes/No
7. Has there been any recent sexual assault?	Yes/No
8. Has there been any recent strangulation?	Yes/No
9. Has there been any recent possession of a firearm?	Yes/No
10. Has there been any recent possession of a knife?	Yes/No
11. Has there been any recent possession of a weapon?	Yes/No
12. Has there been any recent possession of a vehicle?	Yes/No
13. Has there been any recent possession of a boat?	Yes/No
14. Has there been any recent possession of a plane?	Yes/No
15. Has there been any recent possession of a train?	Yes/No
16. Has there been any recent possession of a bus?	Yes/No
17. Has there been any recent possession of a truck?	Yes/No
18. Has there been any recent possession of a car?	Yes/No
19. Has there been any recent possession of a motorcycle?	Yes/No
20. Has there been any recent possession of a bicycle?	Yes/No
21. Has there been any recent possession of a skateboard?	Yes/No
22. Has there been any recent possession of a roller skis?	Yes/No
23. Has there been any recent possession of a snowmobile?	Yes/No
24. Has there been any recent possession of a watercraft?	Yes/No
25. Has there been any recent possession of a vehicle?	Yes/No
26. Has there been any recent possession of a boat?	Yes/No
27. Has there been any recent possession of a plane?	Yes/No
28. Has there been any recent possession of a train?	Yes/No
29. Has there been any recent possession of a bus?	Yes/No
30. Has there been any recent possession of a truck?	Yes/No
31. Has there been any recent possession of a car?	Yes/No
32. Has there been any recent possession of a motorcycle?	Yes/No
33. Has there been any recent possession of a bicycle?	Yes/No
34. Has there been any recent possession of a skateboard?	Yes/No
35. Has there been any recent possession of a roller skis?	Yes/No
36. Has there been any recent possession of a snowmobile?	Yes/No
37. Has there been any recent possession of a watercraft?	Yes/No
38. Has there been any recent possession of a vehicle?	Yes/No
39. Has there been any recent possession of a boat?	Yes/No
40. Has there been any recent possession of a plane?	Yes/No
41. Has there been any recent possession of a train?	Yes/No
42. Has there been any recent possession of a bus?	Yes/No
43. Has there been any recent possession of a truck?	Yes/No
44. Has there been any recent possession of a car?	Yes/No
45. Has there been any recent possession of a motorcycle?	Yes/No
46. Has there been any recent possession of a bicycle?	Yes/No
47. Has there been any recent possession of a skateboard?	Yes/No
48. Has there been any recent possession of a roller skis?	Yes/No
49. Has there been any recent possession of a snowmobile?	Yes/No
50. Has there been any recent possession of a watercraft?	Yes/No

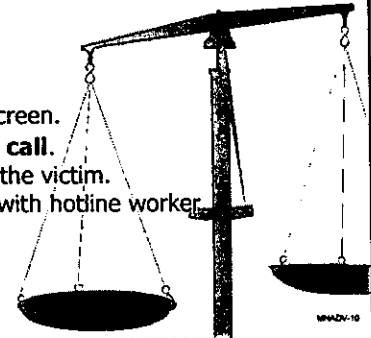


## How the LAP Works

### Protocol for First Responders

Key features:

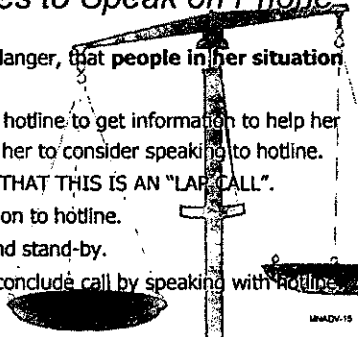
- (1) Initiating the screen.
- (2) Making **phone call**.
- (3) **Encouraging** the victim.
- (4) **Cooperating** with hotline worker.



## How the LAP Works Protocol Referral

### IF Victim Agrees to Speak on Phone

- Advise victim she's in danger, that **people in her situation have been killed.**
- Tell victim you will call hotline to get information to help her and you would like for her to consider speaking to hotline.
- **Call hotline, ADVISE THAT THIS IS AN "LAP CALL".**
- Provide basic information to hotline.
- Put victim on phone and stand-by.
- When victim finishes, conclude call by speaking with hotline.

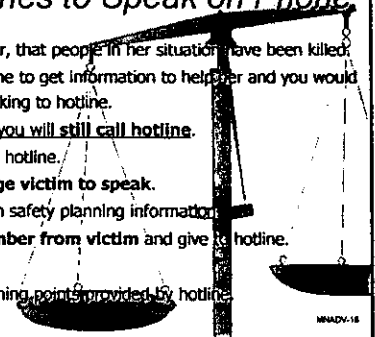


19AADV-15

## How the LAP Works Protocol Referral

### IF Victim Declines to Speak on Phone

- Advise victim she's in danger, that **people in her situation have been killed.**
- Tell victim you will call hotline to get information to help her and you would like for her to consider speaking to hotline.
- Even when victim declines, **you will still call hotline.**
- Provide basic information to hotline.
- Interrupt call and **encourage victim to speak.**
- If victim still declines, obtain safety planning information.
- Request a **safe phone number from victim** and give to hotline.
- Conclude call.
- Advise victim of safety planning points provided by hotline.

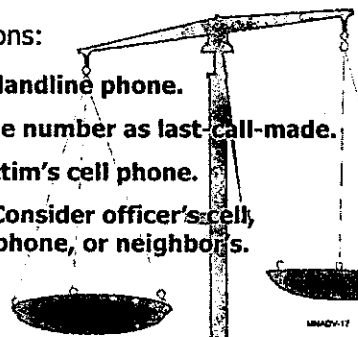


19AADV-16

## Issues and Concerns

### 1. Phone precautions:

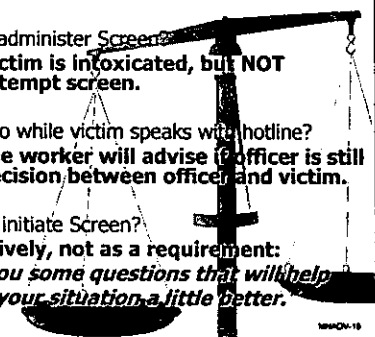
- Use victim's landline phone.
- Delete hotline number as last call made.
- Don't use victim's cell phone.
- No phone? Consider officer's cell, supervisory phone, or neighbors.



19AADV-17

## Issues and Concerns (continued)

2. When officer can't administer Screen? **Find a way! If victim is intoxicated, but NOT incapacitated, attempt screen.**
3. What is officer to do while victim speaks with hotline? **Stand-by. Hotline worker will advise if officer is still needed. Final decision between officer and victim.**
4. How should officer initiate Screen? **Simply and positively, not as a requirement: "I'd like to ask you some questions that will help me understand your situation a little better."**

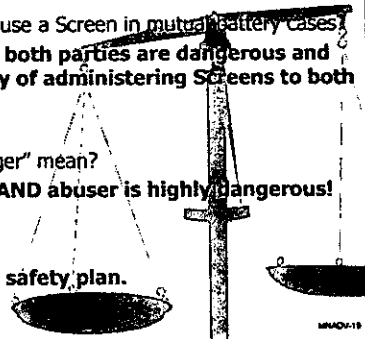


19AADV-18



## Issues and Concerns (continued)

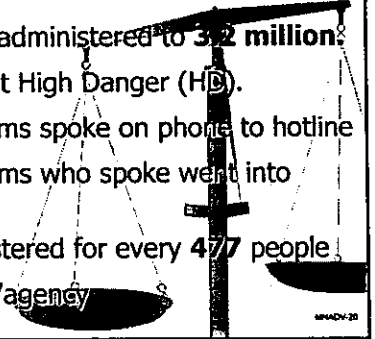
5. How should an officer use a Screen in mutual battery cases?  
**Highly unlikely that both parties are dangerous and controlling. Be wary of administering Screens to both parties.**
6. What does "High Danger" mean?  
**Victim is in danger AND abuser is highly dangerous!**
7. Safety Planning...  
**Let hotline workers safety plan.**



MMADV-19

## Stats and Status Stats in Maryland CY 2006-2008

- **12,000** screens administered to **3.2 million**
- **56%** assessed at High Danger (HD).
- **57%** of HD victims spoke on phone to hotline
- **28%** of HD victims who spoke went into services
- **1** screen administered for every **477** people
- **0.3** screens/day/agency

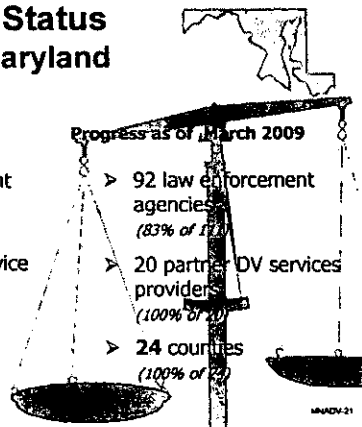


MMADV-20

## Stats and Status Status in Maryland

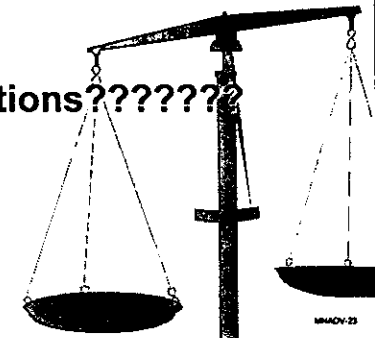
Began October 2005

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>➤ 4 law enforcement agencies</li> <li>➤ 2 partner DV service providers</li> <li>➤ 4 counties</li> </ul> | <p>Progress as of March 2009</p> <ul style="list-style-type: none"> <li>➤ 92 law enforcement agencies (83% of 111)</li> <li>➤ 20 partner DV services providers (100% of 20)</li> <li>➤ 24 counties (100% of 24)</li> </ul> |
|--|--|



MMADV-21

Questions???????



MMADV-22

# **CRIMINAL DOMESTIC VIOLENCE CASES IN NEW HAMPSHIRE COURTS**

**New Hampshire Administrative Office of the Courts**

**Spring 2005**

## **Introduction**

One of the continuing challenges faced by the New Hampshire District Court is the development of accurate information about current practice in criminal domestic violence cases and the impact of existing domestic violence protocols. Currently the Court is unable to systematically track the outcome of criminal domestic violence cases. Through a process of internal institutional reviews and external recommendations from the State of New Hampshire Governor's Commission on Domestic and Sexual Violence Domestic Violence Fatality Review Committee and Protocol Committee, the Court has identified continuing gaps in the system especially with respect to the processing of criminal domestic violence cases. Additionally, the District Court has been a participant in the Northeast Regional Full Faith and Credit Project which has identified the need for better sharing of information regarding bail orders in domestic violence cases as well as information regarding the seizure of weapons in civil and criminal cases.

With funding through the Administrative Office of the Court's (AOC) S.T.O.P. subgrant, the District Court has undertaken a research project to analyze the nature and extent of criminal domestic violence cases and evaluate the Court's response to existing protocols. In order to move forward with effective policy recommendations the Court needs to develop information in criminal domestic violence cases from bail to disposition. Additionally, to implement strategies that provide a more effective response to domestic violence the District Court needs to establish more concrete internal information about the relationship between criminal and civil cases. Research findings will inform the expansion and enhancement of existing protocols and policy.

The following report presents key findings from the District Court's research project on criminal domestic violence cases in four New Hampshire Courts over a three year period.

### **Research Goals**

- Determine the nature of and extent to which criminal cases are DV related;
- Enhance judicial awareness of current sentencing practices;
- Evaluate the response to the existing domestic violence protocol;
- Develop recommendations for better use of the court's new case management system; and
- Define future analysis of centralized data.

# Sample

Cases are considered DV related if one or more of the following criteria are met:

1) the DV Related Box is checked on the complaint form; and/or

2) the unlawful behavior occurs between family or household members or current or former sexual or intimate partners; and/or

3) there is a Protection from Abuse Order associated with the current criminal charge(s).

The sample includes cases in the Concord District Court and three of the Grafton County Courts – Plymouth, Haverhill and Littleton – from 2000, 2001 and 2002. Cases involve violations of a range of criminal statutes. A case includes a single criminal complaint which may or may not have other complaints on the same date.

The following RSA's were used to determine the universe of possible DV related cases:

173-B: 9	Violation of Protective Order	633:2	Criminal Restraint
631:1	First Degree Assault	633:3	False Imprisonment
631:2-A	Second Degree Assault	633-3-a	Stalking
631:3-A	Conduct Involving Laser Pointing Devices	633:4	Interference With Custody
631:3	Reckless Conduct	634:2	Criminal Mischief
631:4	Criminal Threatening	634:1	Arson
632-A:2	Aggravated Felonious Sexual Assault	635:1	Burglary
		635:2	Criminal Trespass

## Criminal Domestic Violence Cases

New Hampshire does not have a criminal DV statute. Criminal DV conduct is charged based on the underlying criminal conduct not because of the nature of the relationship. Violations of protection orders are criminal offenses charged under 173-B: 9 - Violation of Protective Order. Currently, criminal complaint forms include a *DV Related Box* located in the upper left corner of the form. This box is intended to capture whether complaints are DV related and was added to the NH criminal complaint form after VAWA was passed in 1994.

## Limitations

It is important to note that while this research project provides important information on criminal domestic violence cases, the sample is not representative of all criminal DV cases in New Hampshire. Potential DV related cases were pre-selected based on 15 criminal statutes and it is likely that DV related cases involve more than these statutes. Additionally, the consistency of the case file data varies from court to court and from year to year. This lack of uniformity in case file data poses challenges to the quality of this data set.

# Methodology

65% of defendants  
enter a not guilty  
plea

24% of defendants  
enter a guilty plea

11% of defendants  
enter a Nolo  
Contendere plea

Project staff members developed a five page file abstraction instrument based on the forms included in criminal case files as well as elements outlined in chapters 12, 13, 14 and 19 of the District Court's Domestic Violence Case Protocols. Using the list of possible DV related crime types, sorted by RSA number, the Administrative Office of the Courts provided docket numbers of possible DV related cases through its current case management system SUSTAIN. File abstractors worked in the four courts to identify cases for the project's sample. Based on summary sheets of docket numbers, file abstractors reviewed each file to determine if cases were DV related cases. If DV related, abstractors filled out an abstraction sheet for each case. Once abstraction sheets were completed for DV related cases, they are entered in Excel and analyzed using SPSS.

## Key Findings

### *Bail and Sentencing*

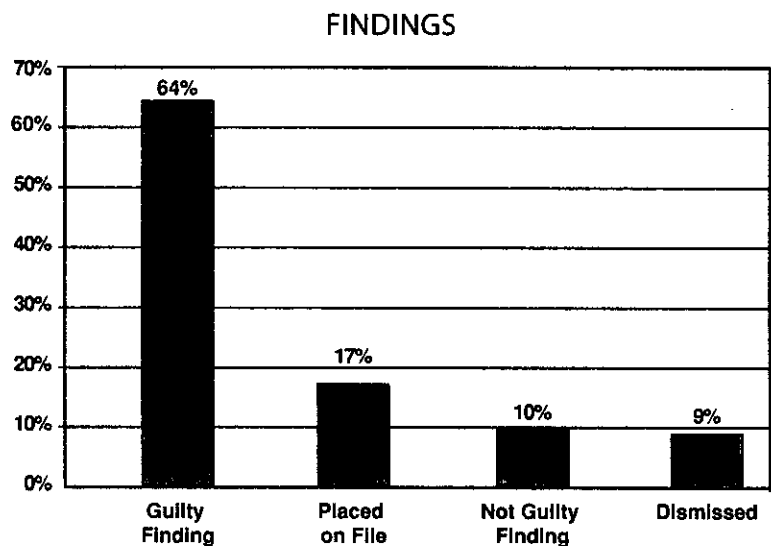
Slightly less than two thirds of defendants enter a not guilty plea. After trial, roughly the same percentage of cases have a guilty finding.

A lower than expected percentage of defendants are ordered to refrain from possessing firearms and have no contact with the victim. Sixty percent of defendants are ordered to have no contact with the victim, 52% of defendants are ordered to refrain from excessive alcohol use; and 39% of defendants are ordered to refrain from possessing a firearm.

In cases where there is a guilty finding 62% of defendants are ordered to

pay a fine. Fifty-five percent of defendants are sentenced to house of corrections. Though some of this time is suspended by the Court, the average time sentenced is 94 days. Twenty-one percent of defendants are placed on probation.

Defendants are more likely to be ordered to attend personal counseling than batterer intervention: 23% are ordered to personal counseling and 10% are ordered to batterer intervention.



# Key Findings

*Slightly more than half of Criminal Domestic Violence Cases:*

*1) involve multiple complaints on the same date;*

*2) are charged as simple assault; and/or*

*3) are granted Protection from Abuse Orders.*

## Criminal Domestic Violence Cases

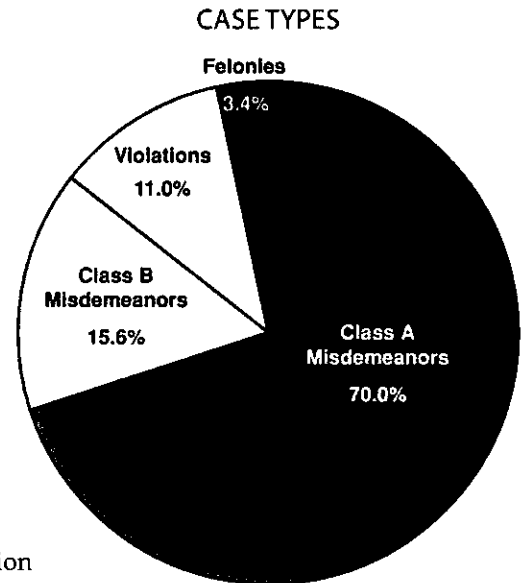
The sample includes 2,223 DV related criminal cases. These cases represent 5% of all criminal complaints in the four courts. Characteristics of defendants in these cases include:

- 78% are male defendants
- 22% are female defendants
- 97% of defendants are white
- The average age of defendants is 33

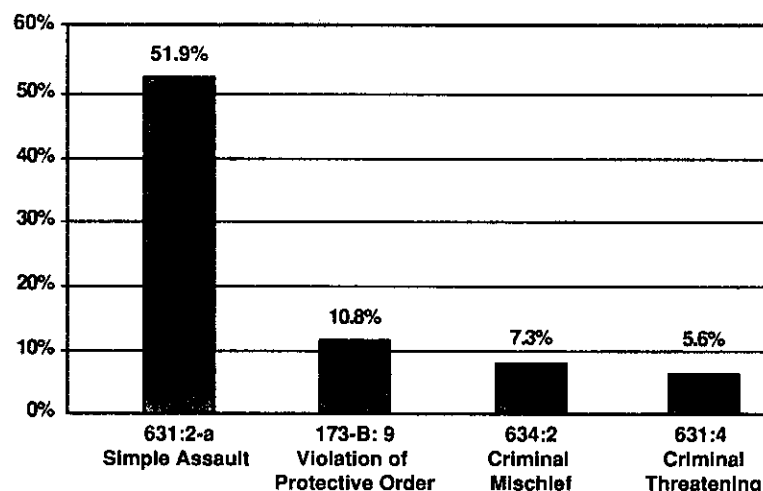
The majority of cases are charged as Class A Misdemeanors. Fifty-two percent of incidents include multiple complaints on the same date. In violations of 173-B:9, 86% of defendants are detained until arraignment. Fifteen percent of incidents have all charges are dropped. Of these cases, 85% are not processed.

Eighty-three percent of these cases have the DV Related Box checked on the complaint form. Fifty-five percent of cases in the sample involve a Protection from Abuse Order in conjunction with current criminal charges and 15% involve a Protection from Abuse Order not in conjunction with current criminal charges. This information is taken directly from the Police Department's statement in the case file and often refers to emergency orders that are granted as a result of the current criminal charge(s).

While DV related cases involve a range of criminal statutes, 76% of cases involve one or more of the following statutes: 631:2-a - Simple Assault, 173-B: 9 - Violation of Protective Order, 634:2 - Criminal Mischief, and 631:4 - Criminal Threatening. The percentage of cases that involve these statutes is illustrated below.



## CRIMINAL OFFENSES



# Key Findings

*Under Federal Law [18 U.S.C. Section 922(g) (9)], persons convicted in any court of a qualifying misdemeanor crime of domestic violence (MCDV) generally are prohibited from possessing, transporting, and purchasing firearms and ammunition.*

## ***Response to District Court's Domestic Violence Case Protocols***

In the majority of violations of 173-B:9, the defendant is detained until arraignment. This is required in the DV Protocol. While, batterer's intervention programs and personal counseling are statutorily permitted and are designed to hold batterers accountable, less than one fourth of defendants are ordered to attend these as conditions of their sentences. A lower than expected percentage of defendants are ordered to refrain from possessing firearms. This is required by the DV Protocol and federal laws.

## ***AOC's Case Management System***

The AOC's current case management system, SUSTAIN, does not allow for the level of data and analysis generated during this research project. Information for this project was collected from paper case files located in the four sample courts. This was a time consuming and labor intensive process. File abstractors carefully reviewed close to 4,700 case files to determine their DV related status. During this process, it was clear that there is a lack of uniformity in the maintenance and use of forms in cases files, as well as data collected by Police Departments, Bail Commissioners, and Court personnel. Recommendations from this research project will suggest strategies to increase the quality of Court data and provide guidance in the development and implementation of the Court's new case management system.

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**Under VAWA, a qualifying misdemeanor crime of domestic violence:**

- **Is federal, state, or local offense that is a misdemeanor under federal or state law;**
- **A QUALIFYING crime of domestic violence must involve the use or attempted use of physical force, or the threatened use of a deadly weapon; and**
- **Was committed by a current or former spouse, parent, or guardian of the victim;**
- **A person with whom the victim shared a child in common;**
- **A person who was cohabiting with or had cohabited with the victim as a spouse, parent or guardian; or,**
- **A person who was or had been similarly situated to a spouse, parent, or guardian of the victim.**

**Source ATF 1 3310.3**

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## ***Resources:***

**New Hampshire Revised Statutes Annotated**  
**<http://www.gencourt.state.nh.us/rsa/html/indexes/>**

**District Court Domestic Violence Case Protocols**  
**<http://www.nh.gov/judiciary/district/protocols/dv/index.htm>**

**Battered Women's Justice Project**  
**<http://www.bwjp.org/>**

**VAWA Measuring Effectiveness Initiative**  
**<http://muskie.usm.maine.edu/vawamei/>**



# Recommendations

## *Bail and Sentencing Practices*

- Increase adherence to federal firearms laws.
- Move the determination of whether a criminal case is DV related to the sentencing stage. While this will only capture convictions and not charged cases, it will increase the accuracy of DV related designations.
- Focus on sentencing tools that increase batterer accountability, and are case appropriate.

## *Response to DV Protocol*

- Increase sentence conditions that are designed to hold batterers accountable.
- Increase adherence to federal firearms laws.

## *AOC's Case Management System*

- Increase the reliability and quality of data.
- Develop a domestic violence reporting and dissemination plan that will provide the AOC, NH Legislators, stakeholders, funders and citizens with information on civil and criminal domestic violence cases.

## *Future Analysis*

- Report statewide data on criminal DV related cases on an annual basis.
- Explore the connection(s) between civil and criminal DV related cases.
- Study the nature and impact of de novo appeal to Superior Court in DV related cases.
- Study the extent to which DV related criminal cases are co-incident with child abuse and neglect.
- Establish a bail order registry. Bail orders in criminal cases should be entered into a statewide database similar to the process used with the domestic violence registry.

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**RESEARCH PROJECT STAFF:** Jane Stapleton, MA, Project Director and Elizabeth Paine, JD, Domestic Violence Specialist. Research project oversight: Honorable Edwin W. Kelly, Honorable Susan B. Carbon and Donald D. Goodnow, Esq., Director of the Administrative Office of the Courts. File abstraction: Grace Smith, Samuel Sargent, Lori Dionne, and Ray Beeson. Data entry: Roberta Morrell, Leslie McGowen and Emily Olsen.

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**FOR MORE INFORMATION ON THIS PROJECT CONTACT:** The Office of the Administrative Judge, District and Family Court, P.O. Box 389, Concord, NH 03302-0389, (603) 271-6418

	Senate Bill 318	Current Law
Pg 1, lines 6-7	a) Purposely or knowingly causes bodily injury or unprivileged physical contact against another by use of physical force;	<b>631:2-a Simple Assault. –</b> I. A person is guilty of simple assault if he: (a) Purposely or knowingly causes bodily injury or unprivileged physical contact to another
Line 8	(b) Recklessly causes bodily injury to another by use of physical force	<b>631:2-a Simple Assault. –</b> I. A person is guilty of simple assault if he: . . . (b) Recklessly causes bodily injury to another; or
Line 9	(c) Negligently causes bodily injury to another by means of a deadly weapon	<b>631:2-a Simple Assault. –</b> I. A person is guilty of simple assault if he: . . . (c) Negligently causes bodily injury to another by means of a deadly weapon.
Lines 10-11	(d) Uses or attempts to use physical force, or by physical conduct threatens to use a deadly weapon for the purpose of placing another in fear of imminent bodily injury;	<b>631:4 Criminal Threatening. –</b> I. A person is guilty of criminal threatening when: (a) By physical conduct, the person purposely places or attempts to place another in fear of imminent bodily injury or physical contact;
Lines 12-13	e) Threatens to use a deadly weapon against another person for the purpose to terrorize that person;	<b>631:4 Criminal Threatening. –</b> I. A person is guilty of criminal threatening when: (d) The person threatens to commit any crime against the person of another with a purpose to terrorize any person;



	Senate Bill 318	Current Law
Lines 14-15	f) Coerces or forces another to submit to sexual contact by using physical force or physical violence	<p><b>632-A:4 Sexual Assault. –</b>  I. A person is guilty of a class A misdemeanor under any of the following circumstances:  (a) When the actor subjects another person who is 13 years of age or older to sexual contact under any of the circumstances named in RSA 632-A:2.</p> <p><b>632-A:2 Aggravated Felonious Sexual Assault. –</b>  I. A person is guilty of the felony of aggravated felonious sexual assault if such person engages in sexual penetration with another person under any of the following circumstances:  (a) When the actor overcomes the victim through the actual application of physical force, physical violence or superior physical strength.</p>
Lines 16-17	(g) Threatens to use physical force or physical violence to cause another to submit to sexual contact and the victim believes the actor has the present ability to execute the threat;	<p><b>632-A:4 Sexual Assault. –</b>  I. A person is guilty of a class A misdemeanor under any of the following circumstances:  (a) When the actor subjects another person who is 13 years of age or older to sexual contact under any of the circumstances named in RSA 632-A:2.</p> <p><b>632-A:2 Aggravated Felonious Sexual Assault. –</b>  I. A person is guilty of the felony of aggravated felonious sexual assault if such person engages in sexual penetration with another person under any of the following circumstances:  (c) When the actor coerces the victim to submit by threatening to use physical violence or superior physical strength on the victim, and the victim believes that the actor has the present ability to execute these threats.</p>

	Senate Bill 318	Current Law
Lines 18-19	(h) Threatens to use a deadly weapon to cause another to submit to sexual contact and the victim believes the actor has the present ability to carry out the threat	<p>632-A:4 Sexual Assault. –</p> <p>I. A person is guilty of a class A misdemeanor under any of the following circumstances:</p> <p>(a) When the actor subjects another person who is 13 years of age or older to sexual contact under any of the circumstances named in RSA 632-A:2.</p> <p>632-A:2 Aggravated Felonious Sexual Assault. –</p> <p>I. A person is guilty of the felony of aggravated felonious sexual assault if such person engages in sexual penetration with another person under any of the following circumstances:</p> <p>(c) When the actor coerces the victim to submit by threatening to use physical violence or superior physical strength on the victim, and the victim believes that the actor has the present ability to execute these threats.</p>
Lines 20-22	(i) Confines another unlawfully, as defined in RSA 633:2, by means of physical force or the threatened use of a deadly weapon, so as to interfere substantially with his or her physical movement	<b>633:3 False Imprisonment.</b> – A person is guilty of a misdemeanor if he knowingly confines another unlawfully, as defined in RSA 633:2, so as to interfere substantially with his physical movement.
Lines 23-24	(j) Knowingly violates a term of a protective order issued pursuant to RSA 173-B:4, I by means of the use or attempted use of physical force or the threatened use of a deadly weapon	<b>173-B:9 Violation of Protective Order; Penalty.</b> –

	Senate Bill 318	Current Law
Lines 25-31	<p>(k) Uses physical force or the threatened use of a deadly weapon against another to block that person's access to any cell phone, telephone, or electronic communication device with the purpose of preventing, obstructing, or interfering with:</p> <p>(1) The report of any criminal offense, bodily injury, or property damage to a law enforcement agency; or</p> <p>(2) A request for an ambulance or emergency medical assistance to any law enforcement agency or emergency medical provider.</p>	<p><b>642:10 Obstructing Report of Crime or Injury. –</b></p> <p>I. A person shall be guilty of an offense under this section who . . . . uses physical force or intimidation to block access to any telephone, radio, or other electronic communication device with a purpose to obstruct, prevent, or interfere with:</p> <p>...</p> <p>(b) The report of any bodily injury or property damage to any law enforcement agency; or</p> <p>(c) A request for ambulance or emergency medical assistance to any governmental agency, or any hospital, doctor, or other medical service provider.</p>

# CONCORD MONITOR

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## Mother of slain 9-year-old pushes to make domestic violence its own crime

By LAURA McCRYSTAL

Monitor staff

Tuesday, January 14, 2014

(Published in print: Wednesday, January 15, 2014)

The mother of a 9-year-old boy who was shot and killed by his father last year shared her story with a Senate committee yesterday to push for a bill that would establish domestic violence as its own crime under state law.

"By calling this crime what it is, I know that we can help the courts and police officers make better informed decisions to put the safety of our children and victims of domestic violence first," said Becky Ranes of Amherst.

Ranes's son, Joshua Savyon, was killed by his father during a court-supervised visit at the Manchester YWCA in August. After killing his son, Muni Savyon killed himself. The father had previously threatened Ranes, and she had a protective order against him.

Domestic violence offenders like Muni Savyon are not currently charged with domestic violence under state law. Law enforcement officials told the Senate Judiciary Committee yesterday that a specific category of crime for domestic violence would help judges, prosecutors and victims' advocates keep families safe.

The bill considered yesterday does not add new crimes to New Hampshire law. Instead, it regroups existing crimes into a domestic violence category if they were committed against a family member, intimate partner or member of the defendant's household.

A person who attacks a stranger in a bar and a person who attacks a spouse would currently be charged

with the same crime of assault, said Sen. Donna Soucy, a Manchester Democrat and the bill's sponsor.

"That is why we need to make domestic violence a crime, because we know these are very different situations," Soucy said. "And we know that, down the line, these (domestic violence) situations can lead to escalation."

The proposed bill would not change penalties for domestic violence crimes. But it would help the police better respond to an emergency situation and research an individual's criminal background, said Deputy Attorney General Ann Rice.

"Unlike most crimes, an incident of domestic violence is rarely a one-time occurrence," Rice said. "Research has made it abundantly clear that domestic violence involves a cycle of violence and the severity of abuse . . . escalates over time."

Ranes told her own story of escalating abuse during her tearful testimony yesterday, with a framed photo of her son positioned on the table beside her. She said Muni Savyon first threatened her in March 2012, saying he had a gun and was ready to kill her, or both Joshua and himself. He carried out the murder-suicide Aug. 11.

"The threat to kill us was real," Raney said. "The attempts to kill us were real. We lived each day with fear."

Raney acknowledged that the domestic violence law may not have saved her son, who loved school, rock collecting and martial arts. But she hopes it could make a difference for other families.

Advocates for victims of domestic violence packed the committee room yesterday, wearing bright stickers that said "Joshua's law" – the bill's sponsors have asked that the law be named after Joshua Savyon if it is passed.

New Hampshire is one of 15 states without a separate crime for domestic violence. Rice said 50 percent of homicides and 93 percent of murder-suicides in New Hampshire are domestic violence-related.

Earl Sweeney, assistant commissioner of the state Department of Safety, said law enforcement's view of domestic violence has evolved and called the bill "long overdue."

Domestic violence is already defined under state law. But law enforcement officials testified yesterday that crimes like assault or threatening are not always specified as domestic violence when criminal records are reviewed by judges and police officers.

The state now relies on judges to fill out a form about domestic violence when an offender is sentenced, but prosecutors and police officers said yesterday that system is not always effective.

"Currently there is just no way to accurately and consistently identify a crime as domestic violence," said Hillsborough County Attorney Patricia LaFrance. "It is so important that I am able to have that information so that I can relay it to a judge when asking for bail."

Crimes would include causing injury, threatening with a deadly weapon, threatening physical force, violating a protective order by threatening or physical force.

Most domestic violence charges would be Class A misdemeanors; if the incident involved a deadly weapon it would be a felony-level offense.

The bill would not further limit offenders' access to guns, advocates said yesterday, because federal law already governs gun ownership requirements and requires states to report criminal records to the federal government.

"This is a tool that we need to distinguish crimes of domestic violence from crimes against nonintimate partners and nonfamily members," said Amanda Grady Sexton, public policy director for the New Hampshire Coalition against Domestic and Sexual Violence. "And until we pass this law, we will not be able to effectively coordinate our community responses to victims and their children."

Only one person spoke against the bill at yesterday's public hearing; Chris Booth of Concord argued that it would not actually decrease crime in New Hampshire.

The Senate Judiciary will vote on the bill before it goes to the full Senate later this year.

(Laura McCrystal can be reached at 369-3312 or [lmccrystal@cmonitor.com](mailto:lmccrystal@cmonitor.com) () or on Twitter [@lmccrystal](https://twitter.com/lmccrystal) ().)

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**Source URL:** <http://www.concordmonitor.com/news/localstate/10203377-95/mother-of-slain-9-year-old-pushes-to-make-domestic-violence-its-own-crime>

# Bill ending parental rights to rapists gains traction

◆SB 253: The bill seeks to reverse the practice in which rapists pressure victims to cut a deal by offering to surrender their parental rights.

## Staff report

CONCORD — Rape victims have to confront their attackers over and over again if the rapist claims parental rights, unlike other crimes a Senate Committee was told Tuesday.

"I did what a lot of women have done; I cut a deal with my attacker," said Shauna Prewitt, a rape victim who chose to keep her child. "I agreed not to testify against him in court, and he agreed to terminate parental rights."

Prewitt, a Chicago attorney and national spokeswoman on parental rights laws, was raped when she was 22 and a senior in college. She decided to keep the child, but her rapist filed for parental rights soon after the baby was born.

"I naively thought there was not a court in America that would entertain granting a rapist parental rights," she said. "I was wrong."

New Hampshire is one of 15 states that requires a sexual assault conviction to terminate the parental rights of the rapist. Senate Bill 253 would change that.

The bill, which has bipartisan support across the political spectrum, would terminate a person's parental rights if he is convicted or pleads guilty to sexual assault, or after a court finds the child was conceived during a rape.

The state's discretionary law to terminate parental rights would become mandatory with a conviction or guilty plea and a judicial

fact-finding hearing finds the child was conceived during rape, under the bill.

Currently, parental termination is a two-step process. First the court has to find the parent is negligent, abusive or has abandoned the child or other such findings, and then the court has to determine if terminating parental rights is in the best interest of the child.

Supporters say 25,000 to 32,000 women in this country become pregnant as a result of rape a year, but only 8 percent of rapes are ever prosecuted. In New Hampshire, a recent study found only 3 percent were convicted or plead guilty.

Oftentimes rapists plead guilty to lesser offenses, ones that neither reflect the heinous crimes they commit nor prevent them from further terrorizing their victims by coming after their children in court, resulting in ugly custody battles that can last several years and ultimately retraumatize not only their victim, but her child as well, said the bill's prime sponsor, Sen. Bette Lasky, D-Nashua.

"New Hampshire's law should be on the side of women and their children who are working, against great odds, to recover their sense of security and stability after the unimaginable trauma of rape," she said.

The American Civil Liberties Union agrees with the intent of the bill, but suggested it does away with judicial discretion and require a lower threshold of proof than is constitutionally required.

"You should not deny the court's ability to determine if terminating parental rights is in the child's best interest," said ACLU-NH at-

torney Gilles Bissonnette. "The court looks at the totality of the circumstances."

But Prewitt said the state's law gives judges discretion in the two-step process and the proposed bill would not change that, only adds a category for finding the child was conceived during a rape.

She told the committee that without the change, rape victims can be ordered to make parental decisions with her attacker and to exchange her child in a public place.

"I couldn't imagine anything worse than co-parenting with my attackers, of co-parenting with my rapist," Prewitt said, noting women often decide not to testify or press charges in return for the rapist dropping parental rights claims.

Women are often put in the position of either protecting the safety of society or protecting their child, she said.

"No raped woman should be put in such an impossible situation."

The bill was supported by the N.H. Coalition Against Domestic and Sexual Violence, the conservative Cornerstone Policy Research, the Diocese of Manchester, Ending the Violence of Dover, NARAL and the N.H. Association of Chiefs of Police.

*Union Reader*  
215114

# Move to make domestic violence a crime gets support

◆ **Joshua's Law:** New Hampshire is one of only 15 states without such a law.

Staff report

CONCORD — A bill making domestic violence a crime was endorsed unanimously by the Senate Judiciary Committee on Tuesday.

Senate Bill 318, or Joshua's Law, is named after Joshua Savyon, who was killed by his father, Muni Savyon, during a court-ordered supervised visit last August at a Manchester YWCA visitation center. Muni Savyon, who turned the gun on himself, was under a domestic violence protective order because he had threatened to kill both Joshua and the

boy's mother, Becky Ranes.

Ranes testified before the committee last month supporting the bill.

"Joshua's mother told me that she never recognized the signs of domestic violence in her own relationship with Joshua's father," said the bill's prime sponsor Sen. Donna Soucy, D-Manchester. "This law would not only shed more light on the issue of domestic violence, but it also would assist others in getting services and protections earlier in the process."

At the public hearing, Soucy said there is a significant difference between a bar fight and violence within a household, yet the perpetrators are charged with the same crime. She

said the bill would not change existing law or enhance penalties, but would bring them under a new umbrella, while increasing due-process rights and retaining law enforcement discretion.

Supporters say the bill mirrors the federal domestic violence law and requires prosecutors to prove the incident involves family or household members or those in an intimate relationship.

Law enforcement says the bill would clarify what is and what is not domestic violence — critical information for prosecutors and judges during arraignments for setting bail or release conditions.

## Half of homicides

And they also note, domestic violence is involved in half of the homicides committed in New Hampshire and 92 percent of the murder-suicides.

"Although New Hampshire has enacted reasonable civil protections for victims, we still do not yet have a crime of domestic violence," Soucy said. New Hampshire is one of only 15 states that do not have a crime of domestic violence.

Joshua's Law is supported by chiefs of police, county sheriffs and attorneys, the attorney general and the New Hampshire Coalition Against Domestic and Sexual Violence.

The bill now goes to the full Senate for action.

## UNH poll: Reps. Shea-Porter and Kuster in trouble

Staff Report

MANCHESTER — A poll released this week shows that Democratic U.S. Reps. Carol Shea-Porter and Ann Kuster are vulnerable to be ousted from their seats in November.

A Granite State Poll conducted for WMUR by the University of New Hampshire Jan. 21-26 showed, in the First Congressional District, Republican former U.S. Rep. Frank Guinta leading Shea-Porter 45 to 39 percent, and Shea-Porter leading Republican former UNH business school dean Dan Innis 43 to 33 percent.

In the Second Congress-

sional District, Kuster narrowly leads. Republican former state Sen. Gary Lambert 38 to 34 percent and leads state Rep. Marilinda Garcia 36 to 30 percent.

The poll sampled 304 residents of the First Congressional District and 280 residents of the Second Congressional District. The margins of error were 4.1 percent and 5.6 percent, respectively.

Republicans lauded the poll as evidence voters do not agree with the two incumbents' support of President Barack Obama and the Affordable Care Act.

*Union Leader*  
2/15/14



# Committee Report

STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE

Date: February 5, 2014

THE COMMITTEE ON Judiciary  
to which was referred Senate Bill 318-FN

AN ACT                    establishing the crime of domestic violence.

Having considered the same, the committee recommends that the Bill:  
**OUGHT TO PASS WITH AMENDMENT**

BY A VOTE OF:    5 - 0

AMENDMENT # 0411s

Senator Donna M. Soucy  
For the Committee

Susan Duncan 271-3076

## New Hampshire General Court - Bill Status System

**Docket of SB318**

Docket Abbreviations

**Bill Title:** establishing the crime of domestic violence.*Official Docket of SB318:*

Date	Body	Description
12/24/2013	S	<b>Introduced</b> 1/8/2014 and Referred to Judiciary
1/8/2014	S	Hearing: 1/14/2014, Room 100, SH, 10:30 a.m.; <b>SC2</b>
2/5/2014	S	Committee Report: Ought to Pass with Amendment <b>#2014-0411s</b> , 2/13/14; <b>SC6</b>
2/13/2014	S	Committee Amendment 0411, AA, VV
2/13/2014	S	<b>Ought to Pass with Amendment</b> 0411, MA, <b>RC</b> 24Y-0N ; OT3rdg
3/13/2014	H	Introduced and Referred to Criminal Justice and Public Safety
4/2/2014	H	Public Hearing: 4/15/2014 1:00 PM LOB 204
4/8/2014	H	==RESCHEDULED== Public Hearing: 4/15/2014 1:00 PM LOB 202-204
4/16/2014	H	Executive Session: 4/22/2014 10:30 AM LOB 204
4/22/2014	H	Committee Report: Ought to Pass (Vote 18-1; RC); <b>HC 32</b>
4/30/2014	H	<b>Ought to Pass:</b> MA <b>RC</b> 325-3
4/30/2014	H	Reconsider MF VV
5/2/2014	H	Third Reading MA Div, 184-155

NH House

NH Senate

# Other Referrals

## COMMITTEE REPORT FILE INVENTORY

☒ ORIGINAL REFERRAL

☐ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

☒ DOCKET (Submit only the latest docket found in Bill Status)

☒ COMMITTEE REPORT

☒ CALENDAR NOTICE

☒ HEARING REPORT

☒ PREPARED TESTIMONY AND OTHER SUBMISSIONS HANDED IN AT THE PUBLIC HEARING

☒ SIGN-UP SHEET(S) (6)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

☒ - AMENDMENT # 0232s ☐ - AMENDMENT #             
☒ - AMENDMENT # 0411s ☐ - AMENDMENT #           

ALL AVAILABLE VERSIONS OF THE BILL:

☒ AS INTRODUCED ☒ AS AMENDED BY THE HOUSE  
☒ FINAL VERSION ☒ AS AMENDED BY THE SENATE

☒ OTHER (Anything else deemed important but not listed above, such as amended fiscal notes):

newspaper articles

DATE DELIVERED TO SENATE CLERK

may 6, 2014

By:

Susan J. Deane  
COMMITTEE AIDE