

A Summary of Personal Protection Order Statutes in the United States

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A systematic analysis of statutes regarding personal protection orders (PPOs) was completed for all 50 states plus the District of Columbia to determine which states are most "victim friendly" in protecting women against domestic violence. Indicators used include compliance with the Violence Against Women Act (VAWA), the relationship between petitioner and respondent, ease of the PPO administrative process, and severity of punishment for violations. Results indicate that most states have PPO legislation that is consistent with VAWA; however, states differ dramatically in accessibility of orders for victims of violence.

Keywords: *domestic violence; orders of protection*

Awareness of domestic violence as a crime that is committed predominately against women first occurred in the 1970s (Chaudhuri & Daly, 1992; Grau, Fagan, & Wexler, 1985; Mills, 1998; Stith & Straus, 1995). Prior to this time, acknowledgment of family violence was generally limited to the examination of child victimization, and it was not until 1971 that a research initiative devoted to family violence included topics other than child abuse or "psychiatric studies of abused wives" (Steinmetz, 1986, p. 52). Beginning with concern that initially was reserved for children who were abused, recognition of family violence eventually expanded to include adult women's victimization at the hands of their intimate partners (Buzawa & Buzawa, 1992). Indeed, although modern society has long been protective of children's rights through measures such as mandatory reporting of abuse and protective

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service agencies, only recently has that same consideration been extended to women who are assaulted by their intimate partners (Binder & Meeker, 1992).

This shift in perspective to recognize the abuse of women as well as children is primarily a result of the concerted efforts of feminist groups during the 1970s (Binder & Meeker, 1992). Outraged, feminists demanded cessation of the systematic oppression of women that allowed domestic violence to be largely ignored by society and facilitated awareness of this problem through the creation of shelters, hotlines, and outreach programs for women who were battered. Of particular significance is the effect of these efforts on the legal community; as a result of their lobbying and political activism, feminists were successful in altering the way that domestic violence cases were handled in the criminal justice system (Mills, 1998). Women who were battered have also played an integral part in this process through grassroots change (Schechter, 1982).

One of the most important advances in the legal treatment of domestic violence cases has been the implementation of personal protection orders (PPOs) in the United States. Sometimes referred to as “no-contact orders” (NCOs),¹ these civil orders prohibit an individual accused of domestic abuse from contacting the alleged victim. PPOs are designed to reduce the incidence of domestic abuse by limiting contact between victim and offender.

Despite these advances, however, PPOs are not uniformly legislated from state to state. In fact, there appears to be substantial disparity in the extent to which states have embraced PPO legislation (see also Eigenberg, McGuffee, Berry, & Hall, 2003). To that end, we had two main goals in the current study. First, we aim to identify states whose statutes contain criteria that are friendly to victims of domestic violence—specifically, we enumerate statutory provisions under which PPOs should be easier to come by and are more protective of victims of domestic abuse. Second, we aim to identify states that are more progressive in their laws regarding PPOs. A systematic analysis of all 50 states plus the District of Columbia was completed to determine which states have formal laws that are most “victim friendly” and most progressive in protecting victims against domestic violence.

PPOs and the PPO Process

PPOs are being used with increasing frequency in many states as a legal remedy in the fight against domestic violence (Carlson, Harris, & Holden, 1999; Chaudhuri & Daly, 1992; A. R. Klein, 1996). PPOs are court-ordered injunctions designed to restrain an individual’s use of physical violence, threats, or intimidation against another person; however, the statutes that authorize PPOs and establish procedures for their issuance and enforcement may vary significantly from state to state. For example, Chaudhuri and Daly (1992) remarked that Connecticut law provides for a broader definition of abuse than many states, allowing for the inclusion of sexual assaults and threats under the provision of PPO legislation. Similarly, Grau et al. (1985) reported that state statutes may require parties in a PPO to establish a recognized relationship,

potentially excluding individuals who share an intimate relationship without residing together, or members of same-sex relationships.

The PPO process generally involves two steps. To begin the process, an individual typically files a petition for a temporary (or *ex parte*) order to be issued immediately and without a hearing (Chaudhuri & Daly, 1992; Grau et al., 1985; Kaci, 1992; Zoellner et al., 2000). Temporary orders remain in effect for perhaps 1 to 2 weeks, during which time a hearing is scheduled to determine whether the temporary order was justified and should be extended (Chaudhuri & Daly, 1992; Grau et al., 1985; Kaci, 1992; Zoellner et al., 2000). At this hearing, the petitioner (the moving party) and the respondent (the individual whose behavior is restrained) have the opportunity to speak with the judge. After hearing from the petitioner and the respondent, the judge may modify and extend the order for any length of time up to the statutory maximum (Chaudhuri & Daly, 1992; Grau et al., 1985).²

PPOs are civil remedies; however, violation of these orders may carry criminal charges. Courts can punish behavior that is not inherently criminal if it violates a PPO, such as contact with the protected party (Judicial Education Center, n.d.). For several reasons, this hybridization of the civil and criminal justice systems makes PPOs a versatile resource for women who experience domestic violence. First, PPOs provide a legitimate alternative when there is no criminal case in which to pursue prosecution. Conversely, many women are reluctant to pursue criminal charges against their assailants, so the civil remedies offered by PPOs may be an attractive substitute (Grau et al., 1985). Second, PPOs provide state protection for women who otherwise might not be able to secure protection on their own (Chaudhuri & Daly, 1992). Third, the criminal sanctions that accompany violation of a PPO have a potentially deterrent effect on batterers, forcing them to consider the consequences of violating the PPO (Carlson et al., 1999). Finally, enactment of PPO legislation communicates to women who are battered that their heretofore private victimization is no longer tolerated and will bring about public intervention (Chaudhuri & Daly, 1992).

Despite these benefits, victims often encounter barriers to obtaining PPOs. For example, filing fees may pose a significant obstacle to women who are financially unable to meet such demands (Chaudhuri & Daly, 1992; Horton, Simonidis, & Simonidis, 1987). On a personal level, petitioning for a PPO may prove to be a formidable emotional task for some women, especially in light of research that suggests attachment to batterers is a weighty factor in women's decision to obtain a PPO (Zoellner et al., 2000).

The statutory language regarding PPOs can also cause problems for victims seeking protection. To begin with, there is often a lack of consensus among practitioners, and between states, regarding what behaviors constitute abuse (Straus & Gelles, 1995). Although most states require proof of physical violence to obtain a PPO, women may experience abuse that is nonphysical (psychological or emotional) and physical (Chaudhuri & Daly, 1992; Grau et al., 1985; Straus & Gelles, 1995). In addition, petitioners may be responsible for serving the respondent with a copy of the PPO (Harrell & Smith, 1996; Horton et al., 1987). The perceived and actual difficulty of locating the respondent, finding a way to serve the respondent while at the same time

avoiding contact with him or her, and ensuring that the respondent will not evade service can be an insurmountable challenge for many women (Harrell & Smith, 1996; Horton et al., 1987).

Furthermore, several studies have investigated why some women who are involved in violent relationships decide not to pursue a PPO or to terminate an existing order after it has been obtained. As many authors have recognized, one of the most frequently cited reasons for voluntarily terminating a PPO is fear of retaliation, whether it be the result of direct threats from the abuser or a general fear that obtaining an order would anger the abuser and induce further violence (Fischer & Rose, 1995; Harrell & Smith, 1996; Zoellner et al., 2000). Indeed, a PPO is not an option for women if the threat of harm after obtaining it supersedes the perceived benefits of protection. Furthermore, Fischer and Rose (1995) observed that women in their sample frequently believed that receipt of a PPO would signify the termination of their relationships, which for many women was an undesired outcome. Although every woman who is battered wants the abuse to stop, there is often a strong desire for the relationship to remain intact, albeit without violence.

The Violence Against Women Act

The Violence Against Women Act (VAWA, 1994) was enacted as part of the Crime Bill, officially known as the Violent Crime Control and Law Enforcement Act of 1994 (VCCLEA). The VCCLEA is a comprehensive package designed to reduce violent crime in the United States, and it allocated US\$9.7 billion in funding to increase the number of community police officers in the United States; provide grants for improvements in corrections, school violence, and family violence; and increase penalties for several types of crime (U.S. Department of Justice, 1994). VAWA contains specific provisions regarding PPOs and creates federal criminal penalties for crossing state lines to commit a crime of domestic violence (§ 2261) or to violate a PPO (§ 2262).

There are two important provisions in VAWA that apply to PPOs. First, the act mandates that all PPOs issued in the United States (by a state or Indian tribe) “shall be afforded *full faith and credit* [italics added] by the court of another State or Indian tribe” (§ 2265). The full faith and credit provision allows criminal charges to be filed against abusers who force victims across state lines for the sole purpose of violating a PPO. Thus, a violation that occurs in a state or tribal location other than the one in which the order was issued must be considered a violation by the courts of that state or tribe, and the offender should be punished according to the laws of the state or tribe in which the violation occurs.

The full faith and credit provision also mandates that orders presented in foreign states (i.e., states other than the one in which the order was originally issued) need not be registered to be considered valid; that is, a police officer is required to enforce a foreign PPO as long as it appears to be valid “on its face.” It is not necessary that individual states include this language in their PPO statutes, inasmuch as federal law supercedes state law. However, court officials and law enforcement personnel in local

jurisdictions may not be as familiar with federal law as they are with their own state law, so explicitly stating these provisions in statutory language seems important. The Family Court Advisory and Rules Committee of the State of New York addressed this point succinctly:

While the federal provision is self-executing and indeed preempts State law, it has generally been recognized that incorporation of the federal requirements into State law would greatly enhance local awareness and the likelihood of effective enforcement. (NY CLS Dom Rel, § 252, 2004)

Second, VAWA states that mutual PPOs are invalid in foreign states unless both parties have given sufficient evidence to the court that domestic violence has been perpetrated by both parties. Although mutual PPOs require that the two parties have no contact with each other, they do not specify a victim or offender. Mutual PPOs have been used in the past when courts were unable (or perhaps, unwilling) to take the time to determine which party is the aggressor in a domestic violence situation. Similarly, they have proved appealing to attorneys because of the amount of time saved by not having to identify a victim and an offender (Topliffe, 1992). These orders imply shared responsibility for domestic violence and, as such, increase the likelihood that the actual victim of violence will be punished. Because of their mutuality, if one party violates an order, both parties may be held responsible for violating it. Prior to the passage of VAWA, courts sometimes issued these orders automatically, even if the accused did not request a cross-petition against the victim (Nugent, 1994). This serves to highlight the lack of time, resources, or even interest of the courts in treating domestic violence as an offense worthy of investigation.

Finally, mutual orders can be damaging because individuals who are abused are denied the status of victim during legal proceedings and because they imply that abusers are not responsible for their violence and that the violence is excusable (Topliffe, 1992). Furthermore, mutual PPOs can be especially problematic for victims who are immigrants because violation of a mutual order can be cause for deportation (Shapiro, 2002). Mutual PPOs also have serious consequences in child custody disputes (Susser, 2000; Topliffe, 1992), and courts tend to overuse mutual orders in same-sex cases rather than take the time to determine who is the actual victim (Hodges, 1999-2000).

Beyond VAWA: Determining Progressive PPO Statutes

There are many criteria by which to evaluate existing statutes for PPOs. Besides those covered in VAWA, we chose to focus on three issues, examining multiple indicators of each. Of each state statute, we ask the following three questions. First, what kinds of individuals are eligible to petition for a PPO based on the type of relationship they share with the respondent? Second, is the administrative process supportive for

victims of violence who petition for a PPO? Third, how severe is the mandated statutory punishment for violating a PPO? We hypothesize that states that are more serious about protecting victims of violence (i.e., that are more progressive) will allow a wide range of victims to apply for PPOs, will have an easily understandable administrative process, and will call for harsh punishments for violations.

Petitioner-Respondent Relationship

We selected two criteria by which to evaluate the petitioner-respondent relationship. First, one of our foremost concerns in the current study involves what kinds of victims are entitled to apply for PPOs under individual state statutes. Historically, PPOs were only available to married individuals, who were required to file for divorce or dissolution of marriage before a PPO could be obtained (Grau et al., 1985). Changes in VAWA since 1994 have included a formal definition of *dating violence*; however, this definition has not been applied to PPOs at the state level. Thus, states are free to define the relationship between two parties as they see fit; relationships may be gender specific (i.e., the parties must be members of the opposite sex), may include cohabitants regardless of gender, or may include individuals in dating relationships. Some states have engaged in vigorous debate about the use of same-sex language in domestic violence statutes, typically arguing that use of gender-neutral language weakens the notion of the traditional family and implies that the state accepts gay and/or lesbian relationships (Knauer, 1999). Thus, we consider states progressive if they allow victims in any type of relationship to apply for PPOs.

Second, women traditionally have been viewed as victims of violence and men as abusers. However, with an increasing focus on violence in same-sex relationships (Greenwood et al., 2002; Turrell, 2000) and the fact that women are also sometimes abusive toward men (Dasgupta, 2002), we must recognize that violence takes place in many nontraditional types of relationships. When the first statutes for restraining orders were written, they frequently included gender-specific pronouns, referring to victims as *she* and abusers as *he*. The existence of this language in a statute does not necessarily keep a male victim from applying for a PPO, nor does it keep a female abuser from being punished. However, it may represent a lack of motivation on the part of state legislatures to carefully update their statutes and remove antiquated language. Thus, we consider states progressive if they use gender-neutral language in their PPO statutes.

The Administrative Process

We selected four criteria by which to evaluate the PPO administrative process established in state statutes. First, in the past, it was common for states to require fees for filing PPOs, as they require fees for filing other types of civil orders. Victims of violence, however, are likely to be economically dependent on their abusers (Kurz, 1998), making the paying of fees very difficult. Clearly, when victims must pay for a

PPO they will be less likely to do so, especially if they are economically disadvantaged (Topliffe, 1992).

To alleviate this burden on victims, states can waive all filing fees for victims or order the abuser to pay any fees associated with the PPO. Unfortunately, requiring that the offender pay filing fees may make the situation much worse; an abuser, already angry with the victim for filing an order, may display even more volatile behavior after being forced to pay court fees. Thus, we consider states very progressive if they simply waive all fees, somewhat progressive if the respondent must pay costs, and not progressive if fees are required to file an order.

Second, trying to navigate the court process can be extremely difficult for laypeople, especially those with little education. Some states mandate that court personnel may not assist victims in the filing of paperwork, likely because of limited time and resources among court personnel.³ Unfortunately, a victim without an attorney and with little money may have a difficult time understanding a complicated court document and providing all the information required within it. Thus, we consider states progressive if they allow courts to provide assistance to petitioners who request a PPO from the court.

Third, in addition to these criteria we are also interested in whether the civil restraining order can be filed independently of criminal charges. As a method of encouraging victims to file charges against their abuser, some state statutes mandate that civil and criminal orders must be filed simultaneously. However, some victims may feel uncomfortable filing criminal charges and are happier with the more moderate option of a PPO. Thus, we consider states progressive if they do not require concurrent criminal charges to be filed with the filing of a PPO.

Fourth, we examine the ability of victims to keep their address private. In some states, statutes require that offenders be provided with a copy of the order that contains the victim's home address. Other states allow the victim to keep this information from the offender, granting only court personnel access to that information. By retaining confidentiality of address, victims have the freedom to leave an abusive residence and relocate to a different home or domestic abuse shelter with the security of knowing that their abuser will not be informed of their location by the court. Thus, we consider states progressive if they statutorily allow confidentiality of address.

Punishing Violations

The final area that we assess deals with the punishment of PPO violations. It is important to distinguish between violations of the specific provisions of the order (i.e., no contact) and violations that are new crimes (such as assault). When coding punishment for violation, we focus on violations that are only violations of the civil order; that is, we do not include violations that are also considered new crimes. We selected three criteria by which to evaluate the punishment of PPO violations. First, in states where protection of victims is a strong concern, we expect to see serious punishments mandated for violations, especially subsequent violations. Thus, we consider states very progressive if they deem first-time violations felonies, somewhat progressive if

they deem subsequent violations felonies, and not progressive if all violations are deemed misdemeanors. Second, we expect that states that are more protective of victims will require treatment and/or counseling options in PPOs and as part of the punishment for violation of orders. Thus, we consider states progressive if they allow for treatment and/or counseling options for petitioners. Third, restrictions against owning or possessing firearms can be part of a PPO, and some legal experts have recommended that weapons should be confiscated from abusers when PPOs are issued (C. F. Klein & Orloff, 1993). This can be automatic with any PPO, or it can be optional, especially if the offender has threatened gun violence in the past. Thus, we consider states to be very progressive if respondents are always prohibited from possessing a weapon, somewhat progressive if weapon prohibition is optional, and not progressive if such a prohibition is not included in the statute.

In summary, we expect that some states will display more support of victims through their statutory language on PPOs. Those states that are friendlier and more progressive in assisting victims of relationship violence will be in compliance with VAWA, will be inclusive as to the type of relationship allowed to file (e.g., same-sex couples and uses gender-neutral language), will have a formal administrative process that is supportive of victims filing for orders (e.g., no filing fees, easy to understand, no criminal charges necessary, and confidential home address), and will mandate harsh punishment for violation (e.g., violation is a felony, makes treatment available, and prohibits weapon possession and/or ownership).

Method

Data for the current study were collected from U.S. statutes in each state and the District of Columbia through June 30, 2003. For each state or district, information was recorded about the process for obtaining a PPO. Our methods for collecting these data involved reading every state statute on PPOs in the 50 United States and the District of Columbia. Each statute was read and coded by at least two individuals to identify the criteria listed above. To simplify the data collection process, the information was taken directly from state statutes, omitting case law and notes. The decision to omit an analysis of case law and other decisions was a difficult one. Our goal in the current study was to present a preliminary evaluation of state statutes regarding PPOs and whether statutory language in each state is "victim friendly" with regard to such orders. However, while legislatures create law, judges and juries can have a significant impact on how the law is implemented through case decisions.

Analyzing state statutes can provide insight into the values and priorities of state legislatures. In states where victim rights are important, we would expect to see legislatures make PPO legislation a priority. Concordantly, in states where victim rights are not highly valued, legislatures might not devote the time to craft a clear statute on PPOs. The analysis of state statutes without case law is unusual. Eigenberg et al. (2003) reviewed statutes for each state and compared current codes with a descriptive study of PPO statutes in the United States in 1988 (Finn & Colson, 1990). Eigenberg

et al. concluded that changes in the statutory language have made PPOs more accessible to victims and that one way this has happened is by broadening the statutory language to include individuals in same-sex and dating relationships.

After coding, each state was given a score intended to measure their progressiveness regarding PPO statutes. We used an additive scale and rated each state statute on the criteria enumerated above. Each variable and its coding are contained in Table 1. Most variables used in the scale are binary; for example, states received one point on the scale if their statute allows individuals in dating relationships to file for protective orders and received a zero for that variable if it does not allow for dating relationships. In some cases, though, it was not possible to identify a dichotomous response. In the case of filing fees, for example, states received one point if fees were waived completely, one half of one point if the respondent had to pay the fee, and zero points if there were filing fees for an order or if it was not stated explicitly in the statute. Each of these values was summed into a single scale, with a possible range from 0 to 11.

A word of caution is necessary here: This is not meant to be a legal analysis of state statutes; rather, we engage in a systematic analysis of these statutes and how they vary. There are many law review articles on the topic of PPOs, and we do not intend to replicate those here. Still, we do hope to shed some light on the formal laws that govern protection against domestic violence in the United States. Finally, we note that neither of the researchers involved in this project holds a law degree. However, rather than a limitation, we see this as a unique advantage of the current study. After all, one of our interests in writing this article is to assess the accessibility of PPO statutes to laypersons who might not be able to afford assistance from attorneys.

Results

One of our first observations at the start of data collection was the wide variety in language, complexity, and difficulty in understanding many of the state statutes. Each state uses different language to refer to PPOs, for example. PPOs, civil restraining orders, and NCOs are all used to describe the same type of order.

It is clear that some state legislatures updated their statutes after the passage of VAWA. Some states clearly use the same language as VAWA (*protective orders*, *mutual restraining orders*, *full faith and credit*), although many contain language that is not consistent with VAWA. When referring to mutual orders, for example, some statutes specify that orders may not be made separate, while others state that the petitioner cannot be served with a PPO without sufficient proof that he or she also engaged in violence along with the respondent.

Organization of statutes also varied dramatically. For example, the Texas statute is very long (64 pages) but is very clear and well organized. All information regarding PPOs was easy to find and code into our database. Some state statutes, however, are not as well organized and can be very difficult to understand for the layperson. New York, for example, contains references to PPOs in three different areas: criminal procedure, social services, and domestic relations law. When the correct sections were

identified, coding was very difficult given that the statutes are written in long paragraphs with few section or chapter breaks.

Several variables we intended to measure were constant across all states. For example, no state mandates that the victim personally serve his or her abuser with a PPO. Although several states require “personal service,” this means simply that the use of registered mail is not allowed. Such service can be performed by a law enforcement officer, and most statutes dictate that there is no fee to the victim for such a service. In addition, all states allow *ex parte* orders to be filed; that is, orders in which only one party is present at the time of filing. With regard to PPOs, these are meant to serve as emergency orders and are only valid for a short window of time. Permanent orders are then issued in a court proceeding in which both parties are present.

Overall Findings

Generally, most states have legislation on PPOs that is consistent with VAWA. Table 2 contains a listing of all states and the resulting score on our scale (ranging from 0-11). No state received a score of less than 4.0 on the scale, and the average score for all states and the District of Columbia was 6.62. A large number of states fall in the middle of the distribution. However, this distribution is not normal; its negative skew indicates that the largest number of states fall at the lower end of the distribution. Eighteen states received scores of 5.5 or 6.0, generally indicating an awareness of the importance of PPOs but lacking the support provided to victims by the most progressive states. Several states received high scores on our scale: Missouri (10.0) and Massachusetts (9.0) top the list, with 12 states receiving scores of 8.0 or higher (see Table 2).

There are interesting regional differences in our findings, as seen in Figure 1. As others have pointed out, the southeastern part of the United States tends to have more conservative attitudes than other regions (Harding & Jencks, 2003), and this includes criminal justice issues (Cochran, Boots, & Heide, 2003). In addition, the “southern subculture of violence” suggests that violence is more acceptable in the southeastern United States and that rates of violent crime are higher there than in other regions of the country (see Gastil, 1971). If violence is more acceptable in the Southeast, we may expect that state statutes in that region will be less punitive toward violence and less likely to protect victims. In fact, we find that states in the southeastern region of the United States received the lowest overall score (5.96), while midwestern states received the highest (7.58).⁵ The other regions fall between these two extremes, with the northeastern region of the United States scoring near the bottom (6.29). The Southwest (6.75) and Northwest (6.56) regions received moderate scores. The assignment of region along with each statute used in the analysis can be found in the appendix.

What Makes a Victim-Friendly State?

Recognition of VAWA. Most states are explicit in their statutes that they accept any PPO that appears valid on its face. Any victim can present these orders to any police

officer, and the officer must enforce the order unless it is obviously fraudulent or expired. Other states do not mention the validity of foreign orders (i.e., filed in other states) at all in their statutes, even though they are required under VAWA to accept and enforce foreign orders. Only Arkansas requires the filing of a foreign protection order for enforcement (A.C.A., § 9-15-302). This statute, written in 1995 and not updated since, clearly is in violation of VAWA. Although the federal requirements override state statutes, it may still be confusing for law enforcement officers and judges in smaller jurisdictions to decide how to handle a foreign order.

Prior to the passage of VAWA, only six states specified in their statutes that foreign orders were to be given full faith and credit in their courts (C. F. Klein & Orloff, 1993). We found that 43 states and the District of Columbia currently specify the acceptance of foreign orders. The remaining seven states differ slightly in the wording of the full faith and credit provision of VAWA. Two states, New Jersey and Oregon, do not mention foreign orders in their statutes. The remaining five states (Alaska, Arkansas, Connecticut, Maine, and Pennsylvania) mention foreign orders by dictating penalties for violation; however, the statutory language does not rise to the exact language of VAWA. For example, according to their statutes it is not clear whether foreign orders must be registered in the state to be valid.

Although most states do not allow mutual PPOs, they declare that mutual orders may be allowed if two separate requests are filed (i.e., one from each party); however, there must be sufficient proof to substantiate such an order. Many states (21) were silent on the issue of mutual orders, which is surprising given the presence of this issue in VAWA. However, a few states are aware of the issue of mutual PPOs, as they mention them with regard to foreign PPOs. It would seem that some states added sections to their statutes after the passage of VAWA yet did not update their own statutory language with regard to mutual orders.

Petitioner-respondent relationship. All states include spouses, ex-spouses, and couples with a child in common as eligible for relief through the filing of a PPO. A large number of states (32) include individuals in a dating relationship; this is an increase from 12 in a comprehensive survey of state statutes published in 1993 (C. F. Klein & Orloff, 1993).

The term *affinity* is frequently used to describe relationship status in state statutes. Whereas most laypeople are familiar with the common definition of this term (having feelings or caring for another person), the word *affinity* can also be used to mean *kinship*. Unfortunately, few states clearly define their use of the term *affinity*, which may be interpreted to mean individuals in a dating relationship. However, as used in most statutes, *affinity* refers to the relationship between a married person and his or her spouse's blood relatives—in other words, in-laws.

Only three states specify that parties must be in heterosexual relationships (Delaware, Montana, and South Carolina). These restrictions typically appear in the definition section of each statute. In Montana, for instance, PPOs are available if the individual requesting the order has been the victim of abuse or is in fear of abuse from a "partner or family member" (Mont. Code Anno. [MCA], §40-15-102). Although this

sounds like same-sex partners are included, the statute goes on to define partner as “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 with a person of the opposite sex” (MCA, § 45-5-206). Because Montana does not recognize marriages between members of the same sex,⁶ this eliminates any possibility that a member of a same-sex couple can apply for a PPO.

The restriction of PPOs to opposite-sex individuals may cause some confusion with regard to the enforcement of foreign orders. According to VAWA, any PPO issued in the United States is valid in any state or tribal reservation; however, the way in which *relationship* is defined for purposes of PPOs is left up to the states. VAWA identifies relationships that are marital in nature, relationships in which the parties have a child in common, and “any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State or tribal jurisdiction *in which the injury occurred or where the victim resides* [italics added]” (§ 2266). Thus, states that do not allow individuals in same-sex relationships to apply for orders must honor orders that pertain to same-sex relationships if presented in another state.

Some states have added special statutes focusing on dating relationships, thus avoiding the murky ground of defining same-sex violence as family violence. Louisiana, for example, adopted the Protection from Dating Violence Act in 2001, allowing for a “romantic or intimate nature” (La. R.S. 46: 2151) between two parties (opposite sex not specified). The previous chapter in their state code is the Protection from Family Violence Act, which allows individuals in marital relationships (specified as opposite-sex) to apply for PPOs.

In the state of New York, it was very difficult to determine what types of parties are entitled to file PPOs against an abuser. The most comprehensive information regarding PPOs is found in Domestic Relations Law, under the chapters dealing with matrimonial action, although some reference to PPOs also exists in criminal procedure law, social services, and the Family Court Act. After close examination of the statutes, we determined that orders under criminal procedure referred to orders filed with a criminal charge pending. Although the state of New York defines domestic violence rather broadly, PPOs seem to be available only for those in marital relationships, relationships of consanguinity or affinity, or for those individuals with a child in common (NY CLS CPL, § 530.11). Overall, New York scores rather low on our scale (4.5), along with Georgia and the District of Columbia.

Most states have changed their language to account for situations in which the offender might be male or female, which is especially relevant in the case of same-sex relationships. As Knauer (1999) indicated, legislative debate surrounding same-sex language has been vigorous. At the time of her publication, only five states allowed individuals in same-sex relationships to file a PPO against their partner. Although opponents of the same-sex language were successful in defeating a change to the domestic violence statute in Arizona in 1998, the statutory language of that state has since been changed. Where the statute used to read, “persons of the opposite sex residing or having resided in the same household,” the current language reads,

Table 1
Variables and Codings Used in Analysis

Variable	Coding
Violence Against Women Act	
Foreign orders are given full faith and credit	0 = not stated .5 = upon registration, implied 1 = yes
Does not allow mutual orders	0 = not stated .5 = implied, not stated explicitly 1 = mutual orders not allowed without proof
Petitioner-respondent relationship	
Allows individuals in same sex relationships to file for order	0 = no 1 = yes
Uses gender-neutral language	0 = no 1 = yes
Administrative process	
Explicitly states no filing fee	0 = does not state/fees charged .5 = fees charged to respondent 1 = no fees charged to either party
Filing assistance provided	0 = not stated 1 = assistance provided by court clerk
Filing of protection order may be independent from criminal charges	0 = not stated 1 = explicitly stated
Address of victim may remain confidential	0 = not stated 1 = yes
Punishing violations	
Penalty for violation/subsequent violation felony	0 = violation is a misdemeanor .5 = first violation is misdemeanor, 1 = any violation felony
Treatment and/or counseling mandatory on violation or as part of order	0 = does not state .5 = allows treatment/counseling as an option in order or for violation 1 = treatment is mandatory upon violation or in order
Weapons restrictions	0 = not stated .5 = option in protective order 1 = mandatory in protective order

“the relationship . . . is one of marriage or former marriage or persons residing or having resided in the same household” (A.R.S., § 13-3601).

Even so, many states continue to have gender-specific language in their statutes. This occurs most commonly when offenders are continually referred to as *he*. In Arkansas, for example, the language reads, “A *person* commits the offense of violation of an order of protection if: . . . *he* knowingly violates a condition of an order of

protection” (A.C.A., § 5-53-134, 2003; italics added). Based on our examination of these statutes, all instances of gender-specific language seem to exist in sections that have not been updated recently, and no state appears to use such language purposefully or to the detriment of victims.

The administrative process. Victims can be dissuaded from applying for PPOs because of the complexity of the legal process. Many victims may not know where to go or whom to ask for assistance. To provide meaningful services to victims, state statutes should be relatively user-friendly with regard to the PPO process. Simply put, the process dictated by the law should be clear and understandable, reflecting an acknowledgment by the state legislature that victims’ rights are valued.

With regard to filing fees, states typically use one of three options for those filing for protective orders. First, the statute can explicitly state that there is no fee for filing a PPO. Second, in some states, the respondent must pay all fees and court costs. Although this might seem similar to a form of justice, in reality it may anger the accused offender and make the situation worse. In addition, a victim aware of this issue may be less likely to file. Third, in a few states petitioners are expected to pay a fee unless their income falls below a specific amount. In several states, fees are mandatory for petitioners. Georgia charges up to US\$38 for filing, service, and a donation to the clerks’ and sheriff’s retirement funds (O.C.G.A., §19-3-3). Alabama’s statute provides criteria for determining whether a petitioner can afford to pay a filing fee (receiving AFDC, food stamps, supplemental social security income) but does not specify what happens if a petitioner receives such payments. It is not clear if the fees are waived or charged to the respondent.

State statutes may also require that local court personnel provide assistance (but not legal assistance) to those individuals filing PPOs in the courts. Historically, some states mandated that court personnel could not assist victims, even though many forms used for the filing of orders are very long and difficult to understand. Today, we find no states that mandate denial of assistance—some states order that court personnel must provide clerical assistance; others do not mention this at all. Of course, court personnel cannot give legal advice or act as attorneys; however, petitioners may be overwhelmed by the “legalese” in long application forms and may require assistance filling them out. In addition, victims may be daunted by the task of completing such forms and might be more likely to file if they have some assistance from court staff.

Whether the statute permitted a victim to file for a PPO separately from a criminal charge was somewhat difficult to ascertain. For example, many statutes use similar language in stating that PPOs may be used in addition to other remedies (including criminal charges), yet they do not specify that those other remedies are mandatory. We identify the states that clearly indicate that victims do not have to file criminal charges to file a PPO. For example, the PPO statute in the State of Washington dictates that “a petition for relief may be made regardless of whether or not there is a pending lawsuit, complaint, petition, or other action between the parties” (Rev. Code Wash. (ARCW), § 26.50.03, 2004).

Table 2
Score for Strength of PPO Statute by State

State	Number of States With Score	Score
Missouri	1	10.0
Massachusetts	1	9.0
Florida, Indiana, Kansas, Michigan, New Hampshire, Washington, Wyoming	7	8.5
California, Illinois, Maine, Texas, Wisconsin	5	8.0
Nebraska, North Dakota, Oklahoma	3	7.5
Colorado, Louisiana, Minnesota, North Carolina	4	7.0
Alaska, Arizona, Iowa, Kentucky, Pennsylvania	5	6.5
Alabama, Maryland, Montana, Nevada, New Jersey Rhode Island, Tennessee, Utah, Vermont, W. Virginia	10	6.0
Arkansas, Connecticut, Hawaii, Idaho, New Mexico, Ohio, South Dakota, Virginia	8	5.5
Delaware, Mississippi	2	5.0
District of Columbia, Georgia, New York, Oregon	4	4.5
South Carolina	1	4.0

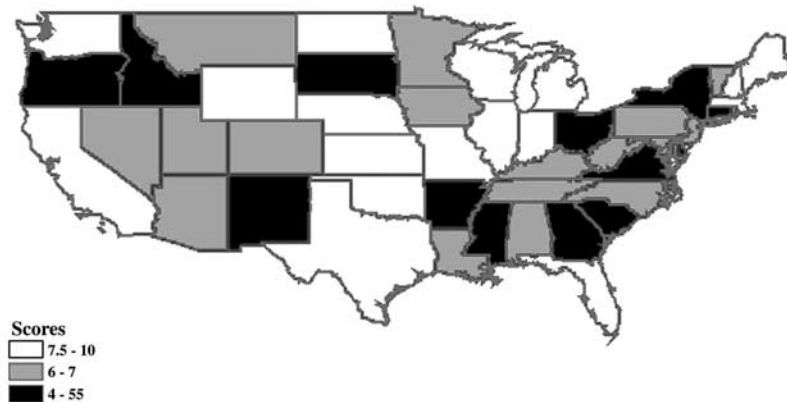
Note: PPO = personal protection order.

Finally, privacy of petitioner's address can be protected in several ways. In some states, the statute clearly states in the language of the PPO that the petitioner's address may be kept confidential by the court. In others, there exists a special provision in the larger domestic violence statute that allows any action involving a claim of domestic violence (including PPOs) to be kept confidential by the court. Some statutes do not make explicit statements about the confidentiality of a petitioner's address, yet do not specifically require this information in the order. Because not all states include the language of the order in their statute, we were unable to code this particular solution. However, most states explicitly designate petitioner address as confidential information, if requested.

Punishing violations. Penalties for violations are typically found within the PPO statute but are occasionally located in criminal procedure or the penal code. In many states, violation of a PPO warrants a misdemeanor contempt charge because of the civil nature of the order. Other states specify that violation of orders carry criminal charges, mostly misdemeanor offenses. Only two states mandate that the first violation of a PPO is a felony offense—Maine and Connecticut. In three states (Missouri, Nebraska, and North Dakota), violators receive a felony charge on a subsequent violation of the same PPO (this refers only to violations of the provisions of the order itself and does not include violations that are also criminal acts, such as assaults).

Some states also include an option for treatment or counseling as part of the PPO or as part of the penalty for violation. We coded these statutes such that any state requiring treatment (either as part of the order or for violation) receives a score of 1, whereas

Figure 1
Regional Distribution of State Scores on Personal Protection Order Scale



Note: Lighter shades (higher scores) indicate greater victim friendliness. Scores for Alaska (6.5) and Hawaii (5.5) are not displayed.

those states including treatment as an option receive a score of .5. States that do not include treatment or counseling options in the statute receive a score of 0. Two states (Massachusetts and Nevada) mandate treatment when orders are violated, and Connecticut orders treatment on a finding of domestic violence regardless of whether a PPO is issued. While a large number of states offer counseling as an option in a PPO or for a violation, a number of states do not mention counseling at all in their statute (Alabama, Arizona, Arkansas, Colorado, Iowa, Michigan, Nebraska, New York, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wisconsin).

Finally, some states restrict the possession of firearms for respondents under a PPO. In eight states, statutory language prohibits possessing a weapon as a condition of the PPO (California, Florida, Massachusetts, Michigan, New Hampshire, Texas, Utah, and Wisconsin). In a slightly larger group of states, the judge issuing the order has the option of restricting firearm possession (Alaska, Arizona, Delaware, Illinois, Indiana, Maine, Maryland, Montana, New Jersey, New York, North Carolina, North Dakota, Oregon, Pennsylvania, and West Virginia).

In sum, the statutory framework governing PPOs differs dramatically by state. These differences are most notable by region; however, even in the regions with low scores on our scale, there are statutes that are more supportive of victims (such as Florida in the Southeast). Overall, the process mandated by the statutes for obtaining PPOs has become easier for victims and provided law enforcement with a greater ability to enforce such orders since the VAWA was passed in 1994.

Conclusions

States differ dramatically in their language regarding PPOs. Even so, PPOs seem to be easier to obtain and are available to many more individuals since the passage of VAWA in 1994. All 50 states and the District of Columbia have some mechanism for victims of abuse, even if some statutory language is more likely to be in agreement with VAWA than others.

Whereas PPOs may be easier to obtain today than in the past, there is little evidence of the efficacy of PPOs against future violence (Burgess-Proctor, 2003). Successful use of orders means that they must be enforced by police officers and that the petitioners and respondents must also take them seriously. Unfortunately, studies of PPO efficacy often reveal serious challenges to their enforcement (Burgess-Proctor, 2003). For example, police officers may require evidence of physical injury before arresting a respondent for PPO violation, thus limiting the effectiveness of PPOs for victims who do not experience subsequent physical abuse (Chaudhuri & Daly, 1992).

There were several topics beyond the scope of this analysis that we encourage future research to explore. The concept of reunification, whereby victims who are abused return to their abusers, is something few state statutes address in statutory language.⁷ Some states specifically assert that petitioners who invite respondents into their homes (or another disallowed area) are not guilty of violating the order, while other states make it a crime for a petitioner to invite the respondent into his or her protected area. According to C. F. Klein and Orloff (1993),

A victim of domestic violence who has procured an order of protection is entitled to the court's protection from further violence throughout the duration of an order of protection, even if the victim is desirous of pursuing a goal of voluntary reconciliation with the offender. (p. 1114)

However, this leaves open the possibility of abuse of the order by the petitioner, who may invite the abuser into the home to facilitate arrest.

Abuse of the criminal justice process is also a topic that deserves additional research. Some states have taken steps to punish those individuals who seek to obtain PPOs under fraudulent means. Unfortunately, those who abuse the PPO laws to gain custody of children or otherwise try to influence divorce proceedings harm public and court perception of real victims of violence. The state of Oklahoma has recognized this and has implemented criminal charges against those who make false claims of abuse:

It shall be unlawful for any person to knowingly and willfully seek a protective order against a spouse or ex-spouse pursuant to Section 60 et seq. of this title for purposes of harassment, undue advantage, intimidation, or limitation of child visitation rights in any divorce proceeding or separation action without justifiable cause. (22 Okl. St., 2004, §60.4)

Future research should also consider case law, court rules, and other factors that interpret the meaning of statutes and local practices regarding PPOs. While this pre-

liminary inquiry reveals some important differences between state statutes, more meaningful differences or similarities may be revealed by such an analysis. Even with the ability to apply for and receive PPOs, victims of relationship violence may face difficulties from police and the courts with regard to domestic violence. Obtaining a PPO is only the first step in the process, and without support from the criminal justice system as a whole, victims will not receive the services they need to be free from abuse.

Appendix Statutes Used in Analysis and Regional Assignment^a

State	Statute Containing Protection Order Information Begins At	Region of United States
Alabama	Code of Ala. § 30-5-2	Southeast
Alaska	Alaska Stat. § 18.66.100	Northwest
Arizona	A.R.S. § 13-360	Southwest
Arkansas	A.C.A. § 9-15-10	Southeast
California	Cal Fam Code § 6200	Northwest
Colorado	C.R.S. 14-4-101	Southwest
Connecticut	Conn. Gen. Stat. § 46b-15	Northeast
D.C.	D.C. Code § 16-1001	Northeast
Delaware	10 Del. C. § 1041	Northeast
Florida	Fla. Stat § 741.30	Southeast
Georgia	O.C.G.A. § 19-13-1	Southeast
Hawaii	HRS 586-1	Northwest
Idaho	Idaho Code § 39-6301	Northwest
Illinois	750 ILCS 60/201	Midwest
Indiana	Ind. Code Ann. § 34-26-5-1 (2003)	Midwest
Iowa	Iowa Code § 236.1	Midwest
Kansas	K.S.A. § 60-3101	Midwest
Kentucky	KRS § 403.715	Southeast
Louisiana	La. R.S. 46:2131	Southeast
Maine	19-A M.R.S. § 4001 (2003)	Northeast
Maryland	Md. Family Law Code Ann. § 4-501	Northeast
Massachusetts	ALM GL ch. 209A, § 1	Northeast
Michigan	M.C.L. § 600.2950	Midwest
Minnesota	Minn. Stat. § 518B.01	Midwest
Mississippi	Miss. Code Ann. § 93-21-1	Southeast
Missouri	§ 455.010 R.S.Mo. (2003)	Midwest
Montana	Mont. Code Anno., § 40-15-102	Northwest
Nebraska	R.R.S. Neb. § 42-901	Midwest
Nevada	NRS § 33.017	Northwest
New Hampshire	RSA 173-B:1	Northeast
New Jersey	N.J. Stat. § 2C:27-17	Northeast
New Mexico	N.M. Stat. Ann § 40-13-1	Southwest
New York	NY CLS Dom Rel § 252	Northeast
North Carolina	N.C. Gen. Stat. § 50B-1	Southeast

(continued)

Appendix (continued)

State	Statute Containing Protection Order Information Begins At	Region of United States
North Dakota	N.D. Cent. Code, § 14-07.1-01	Midwest
Ohio	ORC Ann. 3113.31	Midwest
Oklahoma	22 Okl. St. § 60.1	Southwest
Oregon	ORS § 107.700	Northwest
Pennsylvania	23 Pa.C.S. § 6101	Northeast
Rhode Island	R.I. Gen. Laws § 15-15-1	Northeast
South Carolina	S.C. Code Ann § 20-4-10	Southeast
South Dakota	S. D. Codified Laws § 25-10-1	Midwest
Tennessee	Tenn. Code Ann. § 36-3-601	Southeast
Texas	Tex. Fam. Code § 71.001	Southwest
Utah	Utah Code Ann § 30-6-1	Southwest
Vermont	15 V.S.A. § 1155	Northeast
Virginia	Va. Code Ann. § 16.1-279.1	Southeast
Washington	Rev. Code Wash. (ARCW) § 26.52.020	Northwest
West Virginia	W. Va. Code § 48-27-501	Southeast
Wisconsin	Wis. Stat. § 813.12	Midwest
Wyoming	Wyo. Stat. § 35-21-102	Northwest

a. Most of these codes mark the beginning of the personal protection order section in each statute. Thus, subsequent sections after those listed above are likely to be relevant to the reader.

Notes

1. In some states, no-contact orders are reserved for criminal cases.
2. Despite its misleading name, such "permanent" orders are valid for a set period of time, usually 1 year.
3. It should be stated that court personnel are not attorneys and should not provide legal assistance to victims. However, applications for protective orders can be long and intimidating. Lack of assistance or instruction from court personnel can act as a barrier to the application for orders.
4. There are many Web sites discussing the reorganization of state statutes such as those in Illinois (www.legis.state.il.us/commission/lrb/lrbnew.htm) and California (see www.clrc.ca.gov/pub/2000/MM00-52.pdf), as well as making such things as oaths (in Connecticut: www.cga.state.ct.us/lrc/statutory%20oaths/StatOathsRpt.htm) and jury instructions (Gibson, 1999) understandable to the layperson.
5. ANOVA on these data indicate that the group means do not reach statistical significance ($p = .052$). However, the difference between the region with the highest score (Midwest) and the lower score (Southeast) is significant according to a Bonferroni post hoc test ($p = .042$). We urge the reader to interpret these statistics with caution given the small numbers of states in each group and the resulting high standard errors.
6. At the time this article was written, only Massachusetts recognized same-sex marriage. The state of Vermont recognizes same-sex "civil unions," which allows same-sex partners to obtain benefits similar to those accorded to opposite sex spouses ("Massachusetts Court to Rule," 2003).
7. There is some case law relevant to this point, however. In *State v. Lucas* (100 Ohio St.3d 1, 2003-Ohio-4778), the Ohio State Supreme Court determined that "an individual who is the protected subject of a temporary protection order may not be prosecuted for aiding and abetting the restrainee under the protection order in violating said order" (p. 6).

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