



# CHILDREN AND DOMESTIC VIOLENCE

## WHY IT MATTERS

Domestic violence may be the single major precursor to child abuse. Studies of children who witness domestic violence show that they are more likely to perpetuate the cycle of violence in their own relationships.<sup>1,2</sup> Children who witness domestic violence may experience anxiety, depression, post-traumatic stress disorder, and engage in self-destructive behaviors.<sup>5</sup> In addition, many batterers maintain control over their victims by threatening to obtain custody of children after separation or divorce. Because the law overwhelmingly recognizes each parent's right to access his or her children, many victims are forced to maintain ongoing contact with their abusers.<sup>3</sup>

## DID YOU KNOW?

- Witnessing violence between one's parents or caretakers is the strongest risk factor of transmitting violent behavior from one generation to the next.<sup>4</sup>
- Children fail to report domestic violence or sexual abuse because of shame, fear of retaliation, or fear of not being believed.<sup>6</sup>
- Men who witnessed domestic violence as children are twice as likely to abuse their own partners and children.<sup>7</sup>
- Women who are abused as children are likely to become victims of abuse as adults.<sup>8</sup>
- 30% to 60% of perpetrators of partner abuse also abuse the children in the household.<sup>9</sup>

## CHILD CUSTODY

- Battered women are less likely than non-battered women to be awarded sole legal custody of their children.<sup>10</sup>
- Fathers who batter the mothers of their children are twice as likely to seek sole custody of their children.<sup>14</sup>
- Victims who have restraining orders against their abusers are more likely to secure custody than victims who never filed for a restraining order.<sup>11</sup>
- One study found that courts required only 51% of batterers to attend batterers' intervention or other treatment programs as a condition to obtaining custody or visitation privileges.<sup>12</sup>
- According to one study, courts only restricted 61% of batterers from making decisions regarding their children's well-being.<sup>13</sup>
- Batterers often use child custody as a forum for further abuse through harassment and retaliatory legal actions.<sup>15</sup>
- Some batterers take advantage of joint decisional custody to harass the abused parent over the telephone to discuss the children's guardianship. If the abused parent refuses to answer the phone, the court can hold that parent in contempt.<sup>16</sup>

## SUPERVISED VISITATION

Supervised visitation programs facilitate safe contact between batterers and their children by monitoring visits and preventing contact between the batterer and the victim.

- Only 26% of batterers are required to submit to supervised visits.<sup>22</sup>
- Because supervised visitation programs suffer from lack of funding and shortage of trained professionals, the need for supervised visitation centers far exceeds the number of available programs, resulting in courts ordering unsupervised visitation and endangering parents and children.<sup>23</sup>

## UNSUPERVISED VISITATION

- According to one study, during court-ordered visitation 34% of abusive fathers threaten to kidnap the children and 25% threaten to physically harm the children.<sup>17</sup>
- Because unsupervised child exchanges provide a batterer with access to his victim, unsupervised visitation presents a prime opportunity for a batterer to focus his efforts on regaining control over his victim and to inflict additional violence.<sup>18</sup>
- Batterers often use unsupervised visits to psychologically abuse their children in an effort to continue terrorizing the children's mother.<sup>19</sup>
- Unsupervised visits can create opportunities for an abusive parent to follow through on threats to abduct the children.<sup>20</sup>
- One study found that children who are required to participate in unsupervised visits with an abusive parent experience stomach aches, diarrhea, nightmares, bedwetting, and violent behavior towards siblings and caretakers before and after the visit.<sup>21</sup>

## CHILD SUPPORT

- Many domestic violence victims decide against pursuing child support or decrease the amount requested for child support out of fear that their abusers may inflict additional violence upon them and their children.<sup>24</sup>
- Abusers can intimidate and harass victims during child support negotiations, and there is a significant inverse relationship between fear during child support negotiations and awards of child support.<sup>25</sup>

## STATE CHILD CUSTODY STATUTES<sup>26</sup>

"Rebuttable Presumption"	"Factor" Tests	"Friendly Parent"
<p><b>What is it?:</b> Rebuttable presumption statutes establish that "there is a rebuttable presumption that it is detrimental to the child and not in the best interest of the child to be placed in sole custody, joint legal custody, or joint physical custody with the perpetrator" of domestic violence. This approach is recommended by both the American Bar Association and the National Council of Juvenile and Family Court Judges.</p> <p><b>Prevalence:</b> 18 states and the District of Columbia</p> <p><b>Advantages:</b> Because rebuttable presumption statutes are more likely to ensure that batterers do not receive custody of their children, these statutes protect both women and children from batterers.</p> <p><b>Disadvantages:</b> In dual arrest cases, battered women may not be able to take advantage of a presumption that would otherwise be in their favor.</p>	<p><b>What is it?:</b> Factor tests require judges to consider domestic violence as "one factor" out of a number of factors considered in making child custody determinations. While most states mandate that all factors receive equal weight, a handful of states do require judges to weigh domestic violence more heavily than others.</p> <p><b>Prevalence:</b> 28 states</p> <p><b>Advantages:</b> In dual arrest situations, factor tests may actually benefit an abused parent by downplaying an unfair arrest.</p> <p><b>Disadvantages:</b> Factor tests leave too much room for judges to ignore a history of abuse.</p>	<p><b>What is it?:</b> Friendly parent statutes require judges' child custody determinations to consider which parent will "promote relationships and set aside past conflicts" with the ex-spouse. Although a few states have passed domestic violence exceptions, the majority of states have retained friendly parent provisions in their entirety.</p> <p><b>Prevalence:</b> Most states</p> <p><b>Advantages:</b> When there has been no history of domestic violence, friendly parent provisions can encourage divorcing couples to cooperate more fully in parenting their children.</p> <p><b>Disadvantages:</b> Friendly parent statutes push battered women back into relationships with their abusers and punish those who refuse to re-establish relationships with their abusive former partners.</p>

## HOW TO HELP

- Contact your Members of Congress and urge them to support additional funding for the children's programs in VAWA.
- Work with policy advocacy organizations to influence your state legislature to pass child custody laws that will protect victims and their children in child custody cases.

## IF YOU NEED HELP

For more info or to get help, please contact  
**the National Domestic Violence Hotline at 1-800-799-SAFE.**

## SOURCES

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- <sup>6</sup> Phillips. (March 1993). "Using/Losing Her Voice: Consent, Coercion, and Sexual Silences." Philadelphia: Annual Ethnography and Education Conference.
- <sup>7</sup> Strauss, Gelles, & Smith. (1990).
- <sup>8</sup> McDonnell, Gielen, & O'Campo. (2003). "Does HIV status make a difference in the experience of lifetime abuse? Descriptions of lifetime abuse and its context among low-income urban women." *Journal of Urban Health* 80(3):494-509. (2003).
- <sup>9</sup> Edelson, J.L. (1999). "The Overlap Between Child Maltreatment and Woman Battering." *Violence Against Women* (February 1999) 5:134-54
- <sup>10</sup> Johnson, Saccuzzo, & Koen. (2005).
- <sup>11</sup> Rosen, L.N & O'Sullivan, C.S. (2005). "Outcomes of Custody and Visitation Petitions When Fathers are Restrained by Protective Orders: The Case of the New York Family Courts." *Violence Against Women*, 11(8), 1054-1075.
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- <sup>13</sup> Ibid
- <sup>14</sup> Report of the American Psychological Association Presidential Task Force on Violence and the Family. (1996). *Violence and the Family* 40.
- <sup>15</sup> Ibid
- <sup>16</sup> Shalansky, C., Ericksen, J., & Henderson, A. (1999). Abused Women and Child Custody: The Ongoing Exposure to Abusive Ex-Partners. *Journal of Advanced Nursing*, 29(2), 416-426.
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- <sup>18</sup> Sheeran, M. & Hampton, S. (1999). Supervised Visitation in Cases of Domestic Violence. *Juvenile and Family Court Journal*, 50(2), 13-26.
- <sup>19</sup> Shalansky, Ericksen, & Henderson. (1999).
- <sup>20</sup> Sheeran & Hampton. (1999). Hardesty, J.L. (2002). Separation Assault in the Context of Post-Divorce Parenting: An Integrative Review of the Literature. *Violence Against Women*, 8(5), 597-625.
- <sup>21</sup> Shalansky, Ericksen, & Henderson. (1999).
- <sup>22</sup> Kernic, Monary-Ernsdorff, Koepsell, & Holt. (2005).<sup>23</sup> Lemon, N.K.D. (1999). The Legal System's Response to Children Exposed to Domestic Violence. *The Future of Children: Domestic Violence and Children*, 9(3), 67-83; and Straus. (1995). "Supervised Visitation and Family Violence." *Family Law Quarterly* 29(229), 232-233.
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NATIONAL COALITION AGAINST DOMESTIC VIOLENCE



**The Public Policy Office of the National Coalition Against Domestic Violence (NCADV)** is a national leader in the effort to create and influence Federal legislation that positively affects the lives of domestic violence victims and children. We work closely with advocates at the local, state and national level to identify the issues facing domestic violence victims, their children and the people who serve them and to develop a legislative agenda to address these issues. NCADV welcomes you to join us in our effort to end domestic violence.