DVCC360
RESEARCH • ADVOCACY • POLICY • PARTNERSHIPS

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Promote Economic Rights of Victims Through Restraining Orders

Economic abuse has long been recognized as a primary element of domestic violence. U.S. Department of Justice's Office on Violence Against Women defines economic abuse as, "[M]aking or attempting to make an individual financially dependent by maintaining total control over financial resources, withholding one's access to money, or forbidding one's attendance at school or employment."[1] A direct consequence of economic abuse is that the victim becomes economically dependent on the abuser.[2] The National Council of Juvenile and Family Court Judges (NCJFCJ) recognizes that victim safety depends not only on the absence of physical violence, but also on the presence of social economic, psychological and emotional security, and recommends that jurisdictions facilitate the issuance of civil restraining orders that provide for "the broadest relief allowable under state ... law and as requested by the petitioner" as a universal strategy to enhance victim safety.[3] States around the country have overwhelmingly recognized that civil restraining order proceedings are an appropriate venue, and a necessary venue, for ensuring that a victim of domestic violence does not have to choose between personal safety and economic survival.

Examples of Economic Abuse:

- Withholding information about, and access to, family resources (bank accounts, credit cards, vehicle, etc.);
- Controlling the victim's money/providing only an "allowance" to the victim;
- Putting all property in abuser's name;
- Preventing victim from going to work and/or school;
- Stealing property from the victim;
- Destroying the victim's property;
- Terminating utilities, phone, rent payments whenever the victim attempts to leave;
- Failing to pay child support, even when ordered to do so by a court.

Temporary Child Support Orders

According to the American Bar Association's Commission on Domestic Violence, forty (40) states across the U.S. explicitly provide for the provision of at least temporary child support through their civil protection order statute.[4]

States Which Authorize Child Support:

Alabama	Alaska
Arkansas	California
Delaware	Dist. of Columbia
Florida	Georgia
Illinois	Indiana
Iowa	Kansas
Kentucky	Louisiana
Maine	Maryland
Mass.	Minnesota
Mississippi	Missouri
Montana	Nevada
New Hampshire	New Jersey
New Mexico	New York
North Carolina	North Dakota
Ohio	Pennsylvania
Rhode Island	South Carolina
South Dakota	Tennessee
Texas	Utah
Vermont	Virginia
West Virginia	Wyoming

Temporary Spousal Support Orders

According to the American Bar Association's Commission on Domestic Violence, at least thirty-five (35) states across the U.S. explicitly provide for the provision of at least temporary spousal support through their civil protection order statute.[5]

States Which Authorize Spousal Support:

Arkansas	California
Delaware	Dist of Columbia
Florida	Georgia
Illinois	Indiana
Iowa	Kansas
Kentucky	Louisiana
Maine	Maryland
Massachusetts	Minnesota
Mississippi	Missouri
Montana	Nevada
N. Hampshire	New Jersey
New Mexico	North Carolina
North Dakota	Ohio
Pennsylvania	South Carolina
South Dakota	Tennessee
Texas	Utah
Vermont	West Virginia
Wyoming	

Providing Economic Security & Preventing Economic Retaliation: Leaders Within The Northeast

In addition to ensuring that a victim of domestic violence has the financial resources so that she does not have to choose between personal safety and economic survival, many states specifically provide for additional protections to ward off economic retaliation by an abuser for the victim having obtained the restraining order in the first place. For example, some states expressly authorize courts to order that the abuser maintain any rent/mortgage and/or utility payments. Several Northeastern states have been leaders in this area:

New Hampshire's Civil Protection Order statute[6] reads, in relevant part:

"(b) Other relief including, but not limited to:
(1) Granting the plaintiff the exclusive use and possession of the premises and cartilage of the plaintiff's place of residence, unless the defendant exclusively owns or leases and pays for the premises and the defendant has no legal duty to support the plaintiff or minor children on the premises.
(2) Restraining the defendant from withholding items of the plaintiff's personal property specified by the court. A peace officer shall accompany the plaintiff in retrieving such property to protect the plaintiff.
(3) Granting to the plaintiff the exclusive right of use and possession of the household furniture, furnishings, or a specific automobile, unless the defendant exclusively owns such personal property and the defendant has no legal duty to support the plaintiff or minor children.
(4) Ordering the defendant to make automobile, insurance, health care, utilities, rent or mortgage payments."

New Jersey's Civil Protection Order statute[7] reads, in relevant part:

"b. ... At the hearing the judge of the Family Part of the Chancery Division of the Superior Court may issue an order granting any or all of the following relief: ...
(8) An order requiring that the defendant make or continue to make rent or mortgage payments on the residence occupied by the victim if the defendant is found to have a duty to support the victim or other dependent household members; provided that this issue has not been resolved or is not being litigated between the parties in another action.
(9) An order granting either party temporary possession of specified personal property, such as an automobile, checkbook, documentation of health insurance, an identification document, a key, and other personal effects."

Courts Recognize the Connection:

"[W]hen a defendant's violent acts result in his removal from the marital residence and bar contact with his wife, this may well cause the loss to her of the funds necessary to maintain herself and the house. Such consequences are as direct as removal. That the Legislature did not intend victims of domestic violence to be discouraged by a threat of financial distress is made abundantly clear ... ."

Mugan v. Mugan, 555 A.2d 2 (N.J. Super 1989).

The Catch-All Provision Is Insufficient

Connecticut, like thirty-eight (38) other states,[8] has what is commonly referred to as a "catch-all provision." C.G.S. § 46b-15 reads, in relevant part, "The court, in its discretion, may make such orders as it deems appropriate for the protection of the applicant and such dependent children or other persons as the court sees fit."[9] However, provisions such as these are woefully under-utilized in practice nationally. Many judges refuse to order economic protections, such as the ones outlined above,

preferring to see such orders as more appropriately heard in the context of a separate family court proceeding. However, it is a proper and necessary exercise of the court's jurisdiction in civil restraining order proceedings to address those needs of the victim which are necessitated by the abuser's threats and/or violence as economic issues are highly relevant to victim safety. Referral or deference to another court to determine these issues causes unnecessary delay and denies the victim an effective remedy.[10] This is why so many other states have specifically authorized courts to entertain such forms of relief within the context of a civil restraining order proceeding.

Summary

Economic abuse must be addressed. We, as a community, must understand that women in abusive relationships are more often than not faced with choosing between safety for themselves and their children and economic survival. It is the most easily understandable answer to the question, "Why does she stay?" Access to economic resources is the greatest predictor of whether a survivor will permanently separate from her abuser.[11] Effective strategies to end violence against women must therefore include strong measures that promote economic security and restitution for victims.[12]

Additional Reading

Several national bodies, all versed in the nexus of family law and domestic violence, have produced compilations of state laws and position papers supporting the practice of providing economic protection for victims of domestic violence through the civil restraining order process.

Such resources include:

- "Advancing the Economic Rights of Domestic Violence Survivors in Protection Order Proceedings," (Battered Women's Justice Project): http://www.csaj.org/documents/175.pdf.
- "Domestic Violence Civil Protection Orders (CPOs) by State," (American Bar Association's Commission of Domestic Violence): http://www.americanbar.org/content/dam/aba/migrated/domviol/pdfs/dv_cpo_chart.authcheckdam.pdf.
- "Economic Relief Available in Protection Orders," (Battered Women's Justice Project/ Jewish Women International): http://www.jwi.org/document.doc?id=130.
- "Civil Protection Orders as a Tool for Economic Justice," (Jewish Women International): http://www.jwi.org/document.doc?id=131.
- "Civil Protection Orders: A Guide for Improving Practice," (National Council of Juvenile and Family Court Judges): http://www.ncjfcj.org/resource-library/publications/civil-protection-orders-guide-improving-practice.

Thinking Outside the Box: Other Possible Restraining Order Protections:

- Restitution: at least 26 states expressly authorize the court to order restitution for such out of pocket expenses as medical bills, relocation costs, property damages and lost wages.

  Domestic Violence Civil Protection Orders (CPOs) By State, American Bar Association Commission on Domestic Violence (2007).

- Possession/Use of a Vehicle and Other Personal Property: at least 27 states expressly authorize the court to order exclusive possession of a vehicle and/or to not destroy or dispose of any joint or personal property.

  Economic Relief Available in Protection Orders, a compilation by the Battered Women's Justice Project.

- Intervention Services: at least 31 states authorize the court to order an offender to counseling, substance abuse, and/or batterer intervention services in an attempt to prevent future abuse.

1. *What Is Domestic Violence?* U.S. Department of Justice, Office on Violence Against Women, available at: http://www.ovw.usdoj.gov/domviolence.htm (last visited January 28, 2013).
2. Adams, Adrienne et al., *Development of the Scale of Economic Abuse*, 14 Violence Against Women 568 (2008), available at http://vaw.sagepub.com.rlib.pace.edu/content/14/5/568.pull.pdf+html.
3. Sheeran, M. and Meyer, E., *Civil Protection Orders: A Guide for Improving Practice* 24, National Council of Juvenile and Family Court Judges, Family Violence Department (2010).
4. *Domestic Violence Civil Protection Orders (CPOs) By State*, American Bar Association Commission on Domestic Violence, available at: http://www.americanbar.org/content/dam/aba/migrated/domviol/pdfs/dv_cpo_chart.authcheckdam.pdf (June 2007).
5. *Id.*
6. N.H. Rev. Stat. Ann. § 173-B:5 (2012).
7. N.J. Stat. Ann. § 2C:25-29 (2012).
8. Economic Relief Available in Protection Orders, The Battered Women's Justice Project, Civil Office, published by Jewish Women International, available at: http://www.jwi.org/document.doc?id=130 (last visited January 2013).
9. C.G.S. § 46b-15(b) (2012).
10. *See* Thomas, Christine, *Advancing the Economic Rights of Domestic Violence Survivors In Protection Order Proceedings*, The Battered Women's Justice Project, Civil Office (June 2004).
11. *See* Gondolf, E. and Fischer, E., *Battered Women As Survivors: An Alternative to Treating Learned Helplessness* 95 (1988).
12. *Id.*

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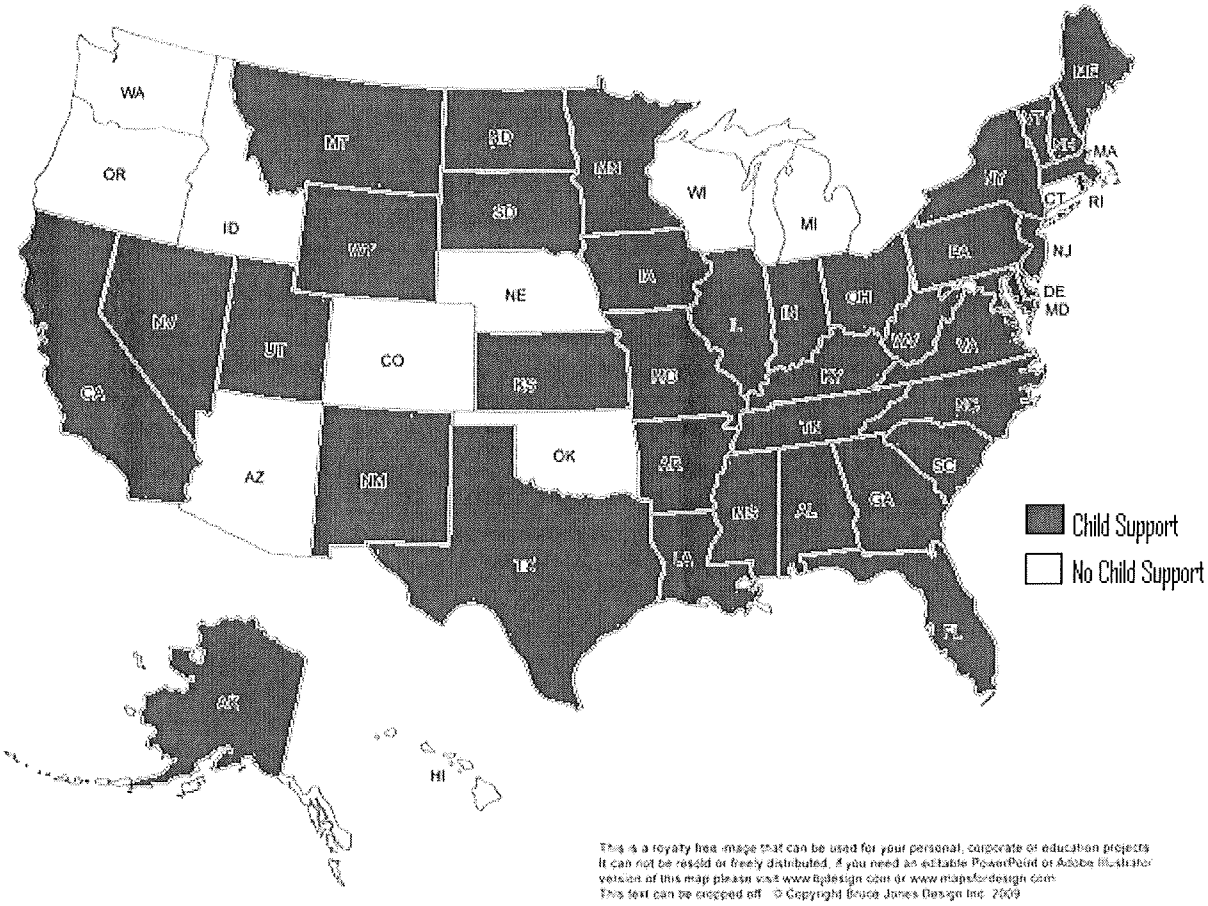
Economic Protections in Restraining Orders: Child Support by State



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