The Law’s Response to Teen Dating Violence
by D. Kelly Weisberg
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Southeast Virginia Legal Aid Society, Feb. 11, 2022

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1. Characteristics
2. State Law Approach: Criminal & Civil
4. Implications & Conclusion
Definition

Physical, sexual, & psychological/emotional violence

Involving a current or former dating partner in which at least one person is under age 18
Description

- Occurs in person & electronically
- Involves both opposite & same-sex relationships
Comparison with Adult IPV
Many Similarities to Adult IPV

- Forms of abuse (physical, sexual & psychological, etc.)
- Can be in person or electronic
- Cuts across racial, ethnic, & socioeconomic lines
Separation Assault

Nearly 1 in 5 teenage dating girls said a boyfriend had threatened violence or self-harm if presented with a break-up

*Liz Claiborne, Teen Dating Abuse Survey (2005)*
Differences from Adult IPV

- Not financially dependent on abusers
- Less likely to cohabit or have children together
- Lack of relationship experience
- Dependence on peers
Important Events
Nearly 30% of adolescent girls have experienced physical, sexual, or emotional abuse in their romantic relationships

*Futures Without Violence,*
https://www.futureswithoutviolence.org/userfiles/file/Teens/Teens_Sept_09_FINAL.pdf
25% of tweens (ages 9-12) have experienced physical violence in their romantic relationships

_Liz Claiborne Study, Teen Dating Abuse Survey (2005)_
About 1 in 5 women who ever experienced rape, physical violence, and/or stalking by an intimate partner, first experienced partner violence between 11 to 17 years of age.

> CDC, NISVS (2010)
Types of Violence

- 37% are victims (12 yrs) of psychological dating violence*
- 15% are victims (12 yrs) of physical dating violence*
- 31% are victims (12 yrs) of electronic dating aggression*
- 25% are victims (13-18 yrs) of sexual abuse (pressured to perform oral sex or engage in intercourse)**

*RWJ Fdn & Futures Without Violence, Prevention in Middle School Matters, Exec. Summary (2012);
**Liz Claiborne, Teen Dating Abuse Survey (2005)
Role of Technology

- Plays major role in TDV
- Frequent texting & calling
- Revenge sexting
- Technology-enhanced stalking
Role of Technology: Research

• More than 1/3 of teens in dating relationships say their partner checked up on them as many as 30x/day (regarding whereabouts & companions)

• Almost 1/5 of dating teens say their partner made them afraid not to respond to cell phone calls, emails or texts.

• Peter Picard, Liz Claiborne, Tech Abuse in Teen Relationships Study (2007) (615 youth, age 13-18)
Overlap

• About 50% of dating youth report mutual violence

*Taylor & Mumford, NORC (2014)*
Gender

- Boys are more likely to inflict *injuries* as a result of perpetrating dating violence than girls.

TDV Homicides

- Girls *(aged 12-15)* who are victims of intimate partner homicides

Rennison, Bureau of Justice Statistics, IPV & Age (2001)
TDV Homicides

- Girls (aged 16-19) who are victims of intimate partner homicides

Rennison, Bureau of Justice Statistics, IPV & Age (2001)
Victim Characteristics

- Age
- Behavioral Indicators: Warning Signs
- Heath Consequences
Age: Research

- TDV starts early: by age 11 (CDC)
- Higher rates of TDV for girls: 25% of high school girls have been abused physically or sexually (Pediatrics 116: 272-276)
- Partner violence escalates throughout teenage years
- TDV is predictor of adult intimate partner violence

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Warning Signs

- Rapid involvement in relationship
- Excessive jealousy
- Invasions of privacy
- Explosive anger & force during arguments
- Unusual moodiness
- Pressuring partner into unwanted sex
- Blaming for problems & not taking responsibility
- Controlling behavior
- Isolation from friends & family
- Constantly monitoring whereabouts
- False accusations
- Ruining personal property
- Taunting & bullying
- Threatening or causing physical violence.
Health Consequences

- Physical injury & death
- Depression, anxiety, & suicidality
- Substance abuse
- Eating disorders
- Reproductive harm (pregnancy, STD’s)
Influence of Parents & Peers
Parents Are Out of Touch

- Fewer than 1/3 of teens in abusive relationships confided in their parents
- Nearly half of parents with children aged 11-18 have not discussed dating violence with them
- 2/3’s of daughters have not had a conversation about dating abuse with their parents

Peer Involvement

- Only 1 out of 3 victims ever told anyone about it

- 73% of teens (age 13-18) would turn to a friend for help in case of dating abuse

Law’s Response

- Criminalization
- Civil Protection Orders
- Prevention Education
Physical violence = same crimes as adult IPV (assault, battery, murder, crime of domestic violence, etc.)

Sexual violence = same crimes as adults plus statutory rape (sexual intercourse with a person under the age of consent, whether or not the sexual act is against that person's will)
Civil Protection Orders

- Expedited remedy
- Judicial petition
- Requires abusers to stay away from victims via no contact & stay-away orders & other restrictions
- Carries threat of criminal prosecution for violations
Advantages CPO

- Immediate relief
- Easier to prove than criminal offense
- Broad relief
- Accountability
- Empowering for victims
Criticisms


- Not all state laws allow teens the right to obtain PO’s
- Not all state laws allow teens to petition on their own behalf (they need a parent)
- Not all state laws cover “dating relationships” or all types of abuse
Protection Orders in California

Cal. Fam. Code §6211 (c)

- Minors (aged 12 & under) can file for PO without a parent
- But if under 18 & living with a parent, then parent must be notified unless judge determines notification isn’t in minors’ best interests
Protection Orders in District of Columbia
D.C. Code §16-1003 (6A)

- Victims 13-15 yrs can petition if in a qualifying relationship (romantic, dating, or sexual relationship)
- Victims <12 need a parent to file on their behalf
- If a parent files for a minor who is age 13 or older, the judge must consider the minor’s wishes in deciding whether to issue the PO & its terms
Protection Orders in Virginia

• Victims can get PO for “family abuse: acts by “family or household member” involving violence, force, or threat that results in physical injury or places person in reasonable fear of death, sexual assault, or bodily injury

• Eligible: spouse/former; some relatives; co-parent or cohabitant (dating partners are not eligible) (Va Code §16.1-228)

• Only emancipated minors can file for protection orders on their own behalf

• PO is available via petition to Juvenile & Domestic Relations District Court if either party is under age 18
Another Approach: TDV Prevention Education
Rhode Island

- First state law on teen dating violence prevention education
- Lindsay Ann Burke Act (2007)
Lindsay Ann Burke: Who was She?
Lindsay’s Mother’s Role in Law Reform

- She lobbied for R.I. state law
- She testified before Congress regarding importance of prevention through education
- Urged Congress to fully fund program (as part of VAWA) to provide money for training school personnel, developing policies, and supporting victims
Mother’s Role

- Started MADE (Moms and Dads for Education to stop dating abuse) with Liz Claiborne, Inc. to advocate nationally for middle & high schools to teach TDV

- R.I. law became model for other states

- Then-R.I. State Attorney General (Sheldon Whitehouse) became U.S. Senator & authored language about TDV prevention in federal law
Mother started Lindsay Ann Burke Memorial Fund

- Offers workshops to health teachers, school staff, parents
- Donates free curriculum materials to schools
- Sponsors annual poster contest for h.s. students
- Created a DVD training
- Created web resource site for health teachers
Rhode Island
Lindsay Ann Burke Act (2007)

Requires school districts to develop dating violence policies & teach about dating violence, specifically in health class in public middle & high schools.

Law requires every middle school and high school to educate staff and students about the dynamics of abuse and have a policy on how to respond to incidents of dating violence.
R.I. Lindsay Ann Burke Act (2005)

• 1. School districts must develop dating violence policy to address incidents that occur at school and inform parents of such policy

• 2. School districts must provide training to administrators, teachers, nurses, mental health staff at middle & high school levels

• 3. School districts must teach age-appropriate dating violence curriculum through HEALTH EDUCATION classes every year in grades 7 through 12

• 4. Strong recommendation for dating violence awareness trainings for parents
• (d) Each school district shall provide dating violence training to all administrators, teachers, nurses, and mental health staff at the middle and high school levels....

• The dating violence training shall include, but not be limited to:

• basic principles of dating violence; warnings signs of dating violence; and the school district's dating violence policy, to ensure that they are able to appropriately respond to incidents of dating violence at school. Thereafter, this training shall be provided yearly to all newly hired staff deemed appropriate to receive the training by the school's administration.

• R.I. Gen. Laws §16-21-30
Video

- Katie Couric, Teen Dating Violence (7 min)
- https://m.youtube.com/watch?v=pRDM_wdz7cw
TDV Prevention Programs


LOVE IS NOT ABUSE: a teen dating violence prevention curriculum, information at www.breakthecycle.org

FUTURES WITHOUT VIOLENCE, START STRONG PROGRAM, information at https://startstrong.futureswithoutviolence.org/about/
States with School TDV Laws


School TDV Laws

- Mandatory versus Permissive
- Curriculum Reform versus Policy/Protocols
- Training of School Personnel
- Develop Response & Reporting Mechanisms

A. Any family life education curriculum offered by a local school division shall require the Standards of Learning objectives related to dating violence and the characteristics of abusive relationships to be taught at least once in middle school and at least twice in high school, as described in the Board of Education's family life education guidelines.

B. Any high school family life education curriculum offered by a local school division shall incorporate age-appropriate elements of effective and evidence-based programs on (i) the prevention of dating violence...
Other State TDV Education Laws
Federal Law

VAWA Reauthorization 2013

- Authorized grants for a new TDV prevention program
- Saving Money and Reducing Tragedies through Prevention Act (SMART Prevention Act)
Authorized grants:

- To develop, maintain, or enhance programs that change attitudes and behaviors around the acceptability of domestic violence, dating violence, sexual assault, and stalking and provide education and skills training to young individuals and individuals who influence young individuals.
Such a program should include—

(A) age and developmentally-appropriate education on domestic violence, dating violence, sexual assault, stalking, and sexual coercion, as well as healthy relationship skills, in school, in the community, or in health care settings;

(B) community-based collaboration and training for those with influence on youth, such as parents, teachers, coaches, healthcare providers, faith-leaders, older teens, and mentors;

(C) education and outreach to change environmental factors contributing to domestic violence, dating violence, sexual assault, and stalking; and

(D) policy development targeted to prevention, including school-based policies and protocols.
### Implications

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<th>Good news:</th>
<th>Bad news:</th>
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| - Focus on TDV *prevention*  
- Focus on younger adolescents | - Mandatory laws are difficult to pass  
- Impetus has often been death of a teen  
- Dependent on parents’ lobbying efforts  
- Lack of funding for implementation  
- Need comprehensive response  
  - Criminal & civil response  
  - Protection orders for teens  
  - Appropriate resources & interventions |
VAWA Proposed Legislation (2022)

• Senator Murkowski’s bill would amend *Public Health Service Act* to rename a formerly authorized demonstration grant as “Bree’s Law”
• Bill allows demonstration grants for the purpose of improving adolescent health
• The bill also aims to teach teens:
  ➢ where to go for help if they experience dating violence,
  ➢ how to build healthy relationships,
  ➢ how to practice positive communication skills, and
  ➢ how to recognize and prevent abusive relationships from the start.
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<tr>
<th>Develop</th>
<th>Develop education and programs relating to TDV &amp; abuse awareness and prevention (at no-cost to high school &amp; middle school students in U.S.) to teach teens about healthy relationships &amp; to recognize/prevent abusive relationships</th>
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<td>Create</td>
<td>Create an interagency working group to address TDV (including DHHS, DOE, DOJ) &amp; including parents of TDV &amp; TDV survivors</td>
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<td>Require</td>
<td>Require annual report to Secretary of HHS with recommendations to reduce and prevent teen dating violence</td>
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Take-Aways

- Teen dating violence is highly prevalent among adolescents of all ages.
- TDV has serious short and long-term implications for health, including injury, death & adult IPV.
- The state law response consists of criminal laws, protection orders, and TDV prevention education. Federal law response consists of VAWA grant provisions promoting awareness.
- Law reform could target improvements in protective order laws & widespread passage of TDV prevention education laws.
Custody Laws Put Safety First
by Danielle Pollock and Erin Meier

Over the past five years there has been growing attention to the failure of child custody laws to protect children at risk from a dangerous parent. One response has been increasing pressure for stronger custody laws to better protect children in these cases. Armed with new research about diminishing family court outcomes, advocates, experts, and survivors of high-conflict experiences in family courts are slowly but deliberately advancing federal and state custody reforms aimed at addressing the problem. These reforms seek to ensure that courts prioritize children’s safety over parents’ rights, close gaps between the private custody and child welfare systems for at-risk children and improve judicial and court personnel training and standards.

This article briefly introduces the movement for family court change and describes a set of federal and state reforms that have recently been achieved or are in progress. It then discusses some key policy areas which have arisen in the development of these reforms, while offering the authors’ perspectives and guidance for future policy advocates.

Movement for Family Court Reform

Over the past several decades a “pro-custody patent” movement demanding child-safety reforms has been growing in the U.S. and internationally. It is fueled by patterns of distressing outcomes, See Custody Laws, page 11

Innovative Legal Remedies for Coercive Control
by D. Kelly Weisberg and Julie Mollin

I. Background

The doctrine of coercive control marks a radical transformation in our understanding of intimate partner violence. It has slowly reshaped the field by emphasizing the knowledge of the underlying dynamics of power and control. In the past few years, law reform efforts have culminated in the codification of coercive control in several foreign countries and a few American states. The codification movement stems from an awareness that new strategies are necessary to capture this pattern of abuse that the law has often failed to recognize.

Forensic social worker Evan Stark coined the phrase “coercive control” in 1995 and a landmark book in 2002. Coercive control consists of an ongoing course of abuse that includes psychological and physical abuse. It is a condition rather than a crime, of which psychological violence as a primary form of physical assault in which severity is measured by the amount and seriousness of physical injury. Tactics of coercive control involve intimidation, degradation, humiliation, surveillance, and isolation. This abuse is used to establish a regime of domination of the victim in their daily life that is intended to instill fear, dependence, compliance, loyalty, and shame.

This form of abuse is widespread, perhaps as many as 50% to 60% of abused women experience coercive control in addition to their experiences of physical and emotional abuse. Coercive control can be as damaging as, and sometimes more damaging than, physical violence. It can lead to severe depression, posttraumatic stress disorder, and suicide.

Dr. Stark conceptualized the coercive control in criminal terms—i.e., as a crime of assault but rather as a “biased crime” focused on depriving victims of their rights to physical security, dignity, and respect. As he explains, “Through the laws we use to protect women and children from men who do us women and children harm, we are enabling and empowering the very men who harm us.”

Several legal scholars have adopted Dr. Stark’s framework in advancing See LEGAL REMEDIES, page 9
DOMESTIC VIOLENCE LAW

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Hardcover • 566 pages
ISBN: 9781634691684 | $125.00

This hornbook is an authoritative, comprehensive overview of all aspects of state and federal law on domestic violence. Hallmark features include in-depth exploration of the following topics and more:

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- Orders of protection (both civil and criminal)
- Tribal law
- Up-to-date coverage of the Violence Against Women reauthorization bill before Congress, the recent U.S. Attorney General’s decision reversing longstanding asylum protection for survivors, and the recent U.S. Preventive Services Task Force recommendation regarding health care screening for domestic violence.

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