Senate Bill 6783

A Critical Step to Combat Intimate Partner Violence
EXECUTIVE SUMMARY

This report supports Senate Bill 6783, which expands the Family Court and Criminal Courts’ “family offense” jurisdiction to include people “who are or have been in a dating or intimate relationship” with their abusers, regardless of marital status, blood relation, or whether they have a child in common.

New York is the only state in the nation that bars domestic violence victims from obtaining civil orders of protection unless they are linked to their abuser by marriage, blood relation, or a child in common. For the numerous domestic violence victims who do not fit within these narrow categories of violence—including many teenagers, dating couples, same-sex couples, and elderly couples—orders of protection are only available through the Criminal Court. In contrast, every other state allows for civil orders of protection against cohabitants. Thirty-seven states and the District of Columbia have adapted to the realities of family violence by allowing domestic violence victims to obtain civil protective orders against romantic partners, regardless of cohabitation or marital status. It is time for New York to follow suit.

Civil protective orders are a necessary supplement to criminal protective orders. As compared to criminal orders of protection, civil protective orders afford domestic violence victims broad protections and remedies, while also enabling victims to have more control over their cases, and therefore more control over their lives.

Without the broad protections provided through civil protective orders, many unmarried domestic violence victims cannot end the violence in their lives until their abusers inflict significant harm upon them. For all the victims who simply need practical help escaping from life-threatening abuse, expanding access to civil protective orders is the solution.

Over the twenty-year struggle to change New York law, some concerns about expanding domestic violence protections have surfaced repeatedly. This paper addresses these concerns, which are largely based on misconceptions about the current law and the consequences of changes proposed by Senate Bill 6783.

Establishing fair access to Family Court for people who are or have been in a “dating or intimate relationship” is feasible, and it will bring the definition of “family offense victim” into closer conformity with other New York laws. Indeed, establishing fair access to Family Court will help fulfill the purpose of Article 8 of the Family Court Act: to stop domestic violence, to end family disruptions, and to provide protection. Even assuming that Family Court caseloads slightly increase, resource constraints do not justify leaving some victims of intimate partner violence without the protections needed to prevent future attacks. By excluding teenagers, dating partners, same-sex couples, and elderly couples from family court civil protective orders, New York is denying necessary precautions to vulnerable populations, a decision that invariably leads to inexcusable hardship and injustice.
INTRODUCTION

For almost four years, Eva suffered repeated beatings at the hands of her boyfriend, Frank, as well as gruesome threats of physical torture and death.\(^1\) Frank kept a knife under the mattress of their bed, and he liked to describe to Eva how he would cut her up into pieces and discard her body parts. Several times he broke all the telephones in the household to prevent her from contacting the police. In 2004, Frank attacked Eva at a train station, hitting her in the face and screaming that he was going to get a shotgun and kill her for good. This time, Eva was able to call 911, and Frank was arrested.

Eva wanted protection from the abuse, but her attempts to secure legal protection stood on precarious footing. Even though Frank spent three days in jail, the criminal case was at risk of being dismissed because Eva could not provide evidence for many of the abusive incidents. Because Eva and Frank were not married and did not have a child in common, she was unable to obtain a civil order of protection.

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Trent and Seth dated for two years before deciding to move in together. Not long after the move, Seth began to isolate Trent from friends; he controlled when and where Trent went, and he would call Trent repeatedly to check up on his whereabouts—sometimes as many as twenty times in an hour. Soon, Seth started abusing Trent physically, verbally, and emotionally. After Seth threw a cell phone at Trent’s head, causing a large bruise and temporarily blinding him, Trent decided to call the police. When the officers arrived, however, Seth claimed that he had been assaulted as well and the police arrested both men. No order of protection was issued, and they were quickly released.

Less than a week later, Seth again exploded in anger. He knocked over the TV set, dragged Trent onto the floor, and began to choke him with the TV cord. When the police arrived, they made derogatory comments about Trent and Seth’s relationship as a gay couple. While Trent sought treatment at the hospital, Seth called to say that if Trent came back home he would kill him. Since Trent was not married to Seth and they had no children, he could not seek a civil order of protection. Without that, Trent could not go home safely. When the domestic violence agency that Trent contacted was unable to find him a space in a domestic violence shelter, he went to a homeless shelter instead. There Trent was once again subjected to harassment on account of his sexual orientation. Trent now faces a long and slow battle to put his life back together.

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New York was once a pioneer of domestic violence protections. In 1962, New York became one of the first states to enact legislation allowing domestic violence victims access to civil orders of protection.\(^2\) In so doing, the State’s legislators acknowledged that the criminal justice

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\(^1\) The stories presented here are based on a compilation of accounts from survivors of domestic violence living in New York. The names and precise details have been changed for confidentiality reasons.

system in New York was not fully equipped to provide full relief for incidents of domestic violence. Many survivors of family abuse sought "practical help," not the retribution or criminal punishment that a criminal proceeding might provide. To fill the gap, the state created Family Court orders of protection specifically to address the unique problem of domestic violence. Today, however, New York has fallen behind every other state in providing civil orders of protection for domestic violence; our law is the most limited in the nation.  

Family Court Act § 812 currently allows domestic violence victims to obtain civil orders of protection only if they and their abusers are "members of the same family or household." While this phrase was not defined when originally enacted, the current statute narrowly defines victims of family offenses to include: "persons related by consanguinity or affinity; persons legally married to one another; persons formerly married to one another; and persons who have a child in common regardless of whether such persons have been married or have lived together at any time." This means, in short, that only individuals who have been married to, have a child in common with, or are related to their abuser by marriage or blood can seek civil protection. Everyone else can only secure orders of protection in Criminal Court. By excluding non-married romantic partners from accessing civil protective orders in family court, New York law fails to protect many victims from life-threatening abuse.

For Eva, Trent, and numerous domestic violence victims like them—many of whom remain in serious relationships with their abusive partners for years but never marry or have children—lack of access to New York's Family Courts have grave social consequences. Abusers in these cases often commit violence with greater impunity, knowing that their partners have no legal recourse to civil orders of protection. Their victims frequently see no choice but to endure the abuse, especially when the abuser restricts their access to the police or when the criminal justice response fails to result in a prosecution. Lack of fair access to Family Court discourages many victims from coming forward at all.

Senate Bill 6783 addresses these problems by amending the Family Court and Criminal Courts' "family offense" jurisdiction to include people "who are or have been in a dating or intimate relationship" with their abusers "regardless of whether such persons have lived together at any time." Dating and intimate partners will finally be able to secure

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3 Report of Joint Legislative Committee on Court Reorganization, The Family Court Act, 1962 Sess. Laws (Vol. 2) 3428, 3444 (McKinney) (stating that "[f]amily courts]) . . . main purpose is to secure protection, support, and custody of children—matters that are beyond the formal powers of criminal courts"); see also Montano v. Montano, 286 N.Y.S.2d 605, 609 (1968) (stating that "[t]he Family Court's 'family offense' jurisdiction, according to the findings in the Act, was established because the real purpose of wives and others who brought assault and disorderly conduct charges against family members generally 'was not to secure a criminal conviction and punishment, but practical help')").

4 New York State is the only jurisdiction that does not permit civil protective orders for cohabitants. See, Judith A. Smith, Battered Non-Wives and Unequal Protection-Order Coverage: A Call for Reform, 23 Yale L. & Pol'y Rev. 93, 96 (2005). For a comparison to some of the protections provided in other jurisdictions, see Appendix B, "National Domestic Violence Statutes."


6 Douglas J. Besharov, Practice Commentaries: Members of the Same Family or Household, N.Y. Fam. Ct. Act § 812 (McKinney 1998) (commenting that the original definition sparked a great deal of litigation because it was not originally defined); see also Smith, supra note 4, at 129 (explaining that "the problem [with the original phrasing] . . . was that abusers advocated [for] this more expansive definition of family or household to avoid the sanctions of criminal court.").


8 S.6783 (N.Y. 2008), amd. Fam. Ct. Act; amd. N.Y. Crim. Proc. Law §§ 530.11 & 530.12. This bill is sponsored by Senator George Winner and cosponsored by Senators Kenneth LaValle, Thomas Morahan, Michael Nozzolio, and
civil protective orders within New York Family Courts. Finally, numerous domestic violence victims will have access to the rights and remedies necessary for transitioning from “victims” into “survivors.”

Over the twenty-year struggle to change New York law, some concerns about expanding domestic violence protections have surfaced repeatedly. This paper addresses these concerns, which are largely based on misconceptions about the current law and the consequences of change. To contextualize this proposed bill, Part I discusses the failings of New York’s current system and why civil protective orders are a necessary supplement to criminal protective orders. Part II considers the most prominent misconceptions about expanding fair access to Family Court orders of protection, and concludes that these misconceptions do not justify precluding many victims of domestic violence from accessing civil protective orders.

Senate Bill 6783, the “Fair Access to Family Court” bill, must be passed in order for victims like Eva and Trent to secure the protection they need. Passing this bill is a critical step toward combating domestic violence and saving lives.

I. NEW YORK’S CURRENT RESTRICTIONS ON CIVIL PROTECTIVE ORDERS LEAVE MANY DOMESTIC VIOLENCE VICTIMS IN GRAVE DANGER

For many victims, New York’s current system of limiting civil protective orders to a narrow class of domestic violence victims denies the realities of their serious yet abusive relationships. For many others, the current law provides a perverse incentive to formalize relationships with their abusers. For all victims precluded from accessing New York Family Courts to secure civil protective orders, the current law hinders their efforts to escape terrorizing cycles of violence.

Senator Joe Robach. The New York Assembly passed it unanimously on March 17, 2008 and the Senate Judiciary voted out of committee nearly unanimously. The bill is on Senate Third Reading Calendar #686 and waiting to be placed on an active list by the Majority Leader (Senator Bruno). S.6783 must be moved to the active list and passed immediately.

9 For many people who experience domestic violence, however, the difference between being a “victim” and a “survivor” is not so simple. While the legal system describes people who experience domestic violence as “victims” because they are not at fault for the harm inflicted, many individuals feel like “survivors” for escaping the abuse alive. Whether people feel like “victims” or “survivors” may depend on the circumstances of abuse as well as where they are in their healing process. See Naomi Cahn & Joan Meier, Domestic Violence and Feminist Jurisprudence: Towards a New Agenda, 4 B.U. Pub. Int. L.J. 339, 355–56 (1995); Carolyn J. Black, Translating Principles into Practice: Implementing the Feminist and Strengths Perspectives in Work with Battered Women, Sage Publications 332, 335(2003); see generally Lenora E. Walker, The Battered Woman (1979) & The Battered Woman Syndrome (1984) (first articulating her theories on the battered woman syndrome). For the purpose of this White Paper, we generally refer to people who have experienced domestic violence as “victims” principally to comport with existing legal definitions.

10 The bill was first introduced to the New York Assembly in 1988 and first passed in 1991. The Assembly has unanimously passed this bill every year that they have voted on it. In contrast, this bill was first introduced in the New York Senate in 2001 and has never been voted on.

For discussion about the specific concerns of many legislators, see Part II infra “Expanding Access to Family Court Provides Necessary Protections for Victims of Domestic Violence.”
A. Domestic Violence: Definitions and Statistics

New York’s restrictive definition of family offense victims—for the purpose of the Family Court Act and the Criminal Procedure Law—do not map onto the realities of domestic violence and the experience of violence between intimate partners.

Domestic violence is commonly defined as “any pattern of coercive tactics, which can include physical, psychological, sexual, economic and emotional abuse, perpetrated by an intimate or family member, with the goal of establishing or maintaining power and control over the victim.” Intimate partner abuse affects people of every race, ethnicity, class, sex, sexual orientation, gender identity, religion, and age. It occurs whether couples are married, living together, or dating.

Many of the people currently unable to obtain civil protective orders in New York Family Court are among the most likely to need them. According to Department of Justice statistics, “[w]omen ages 16 to 24 experience the highest per capita rates of intimate violence.” Many of these women have not married or had children with their abusers. Teenagers are particularly vulnerable to abuse, as indicated by the fact that “one in five teens in a serious relationship reports having been hit, slapped, or pushed by a partner.” Within New York City alone, the City’s Domestic Violence Hotline received 16,861 calls from teenagers during 2007. Additionally, domestic violence occurs in one-quarter of all same-sex couples. Same-sex couples experience domestic violence at the same rate as heterosexual couples, but have far fewer legal protections.

Domestic violence among elderly couples is also a severe problem, as many elders choose to cohabit rather than re-marry after a spouse passes away and therefore do not have access to civil protective orders. The actual prevalence of domestic violence among elderly couples is unknown.

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16 Kathleen Finkley Duthu, Why Doesn’t Anyone Talk About Gay and Lesbian Domestic Violence? 18 T. Jefferson L. Rev. 23, 24 (1996) ("Although it is generally accepted that domestic violence occurs in at least the same proportion in homosexual relationships, the crimes appear to be even more underreported than in heterosexual relationships and much less research and fewer resources have been dedicated in the area"); see also Nat’l Gay and Lesbian Task Force, Domestic Violence Laws in the U.S. (2005), www.thetaskforce.org (finding that "gay and bisexual men experience abuse in intimate partner relationships at a rate of 2 in 5, which is comparable to the amount of domestic violence experienced by heterosexual women").
since many elderly people do not report abuse for “fear of loneliness, feelings of shame, fear of being institutionalized, fear of being disbelieved and separation from families.”

Given the high rates of domestic violence among young women, teenagers, same-sex couples, and elderly couples, restricting access to Family Court ignores a large percentage of domestic violence victims. Under Senate Bill 6783, every victim in a serious romantic relationship would be entitled to equal protection from abuse.

B. Family Court Civil Orders of Protection are a Necessary Supplement to Criminal Court

Civil protective orders are a necessary component of violence prevention. In contrast to criminal protective orders, civil orders afford domestic violence victims broad protections and remedies, while also enabling victims to have more control over their cases, and therefore more control over their lives. Studies indicate that civil protective orders are frequently successful at reducing incidents of domestic violence and helping to keep people safe. Thus, while Criminal Court can provide some victims of domestic violence with redress, there are many reasons why a victim of domestic violence might prefer or need a civil order of protection.

Civil protective orders differ most fundamentally from criminal protective orders in that they are designed to protect victims from ongoing violence, rather than to punish perpetrators for past violence. In order to enable domestic violence victims to escape from abusive relationships, civil protective orders offer victims more extensive remedies than criminal protective orders. While both Criminal Court and Family Court can issue protective orders that require an abuser to stay away from the victim and to stop committing abusive acts, only Family Court can also mandate an abuser’s involvement in a batterer’s intervention program, a substance abuse program, an anger management course, or another relevant psycho-educational/counseling program.

18 See Adrienne J. Lockie, New York’s Failure to Protect All Victims of Domestic Violence, 18 Am. J. Family Law 234, 236 (2005). In three different evaluation studies conducted over the course of two years, for example, forty to fifty percent of women who filed protective orders reported no further abuse. Matthew Carless, Susan Harris, & George Holden, Protective Orders and Domestic Violence: Risk Factors for Re-Abuse, 14 J. of Family Violence 205, 207 (1999) (referencing studies conducted by Harrell and Smith, 1996; Horton et. al., 1987; & Klein, 1996 which found a significant decline in the probability of abuse following a protective order). An even greater percentage of interviewees believed that the civil protective orders helped to convey to abusers that the violence was not acceptable. See, e.g., Black, supra note 9.
19 N.Y. Crim. Proc. Law § 530.11 (2) (McKinney 2008), stating:
(b) That a family court proceeding is a civil proceeding and is for the purpose of attempting to stop the violence, end family disruption and obtain protection.
(c) That a proceeding in the criminal courts is for the purpose of prosecution of the offender and can result in a criminal conviction of the offender.
also require a batterer to pay medical costs for injuries sustained as a result of the violence, to pay reasonable attorneys fees, to pay restitution for the abuse, and to observe “other conditions as are necessary to further the purposes of protection.”22 These broader remedies help victims to overcome the physical, emotional, and economic concerns that often pressure people into remaining in abusive relationships.23

Civil protective orders are also easier to obtain due, in part, to a lower burden of proof.24 Because many domestic violence victims do not call the police, visit a hospital, develop scars, or contact witnesses every time an abusive incident occurs, it is difficult for many domestic violence victims to prove beyond a reasonable doubt that they are in life-threatening danger or that a past crime occurred.25 Since domestic violence frequently occurs in cycles—where egregious acts of domestic violence follow a tension-building stage involving threats and harassment—victims might recognize a need for future protection even though a Criminal Court might not see a pressing need for punishment. For people like Eva, a lower burden of proof can make all the difference in whether or not she can secure protection from serious violence. Therefore, the burden of proof required for civil protective orders may more effectively and appropriately correspond to the experiences of domestic violence.

In addition, Family Court civil protective orders are an important supplement to Criminal Court proceedings because they allow victims to initiate petitions, to decide whether or not to withdraw their cases, to have a say in scheduling, to influence what evidence is presented, and to request particular remedies.26 Civil protective orders serve as a way for people who have been continuously disempowered to begin regaining control over their lives.27 In contrast, in Criminal Court, a domestic violence victim is not a party to the action. Whether a lawsuit will proceed often boils down to the discretion of police officers, district attorneys, and Criminal Court judges.28

22 N.Y. Fam. Ct. Act §842(a)-(j) (McKinney 1997); see also Smith, supra note 4, at 113.
23 Zelda B. Harris, The Predicament of the Immigrant Victim/Defendant: “V/AWA Diversion” and Other Considerations in Support of Battered Women 23 St. Louis U. Pub. L. Rev. 49, 71 (2004) (“[O]ne of the factors that can prevent some women from leaving an abusive relationship is the inability to support themselves and their children independent of the abuser.”), see also Urban Justice Center, Race Realities in New York City: Response to the Periodic Report of the United States to the United Nations Committee on the Elimination of Racial Discrimination 77 [CERD Report] (2007) (discussing how the arrest of a sole breadwinner may be devastating for low-income, domestic violence victims because a breadwinner cannot earn money while in police custody and may lose his or her job as a result of the arrest. With a civil protective order, however, the breadwinner can still support the family (and indeed can be ordered to) while living apart from the family).
24 In Criminal Court, one must show that a person is guilty of the alleged crime “beyond a reasonable doubt,” whereas in Family Court one must only show that a person’s guilt is established by a “preponderance of the evidence.” Lockie, supra note 18, at 236.
25 See Smith, supra note 4, at 119.
26 Sarah E. Warne, Rocks, Hard Places, and Unconventional Domestic Violence Victims: Expanding Availability of Civil Orders of Protection in New York, 52 N.Y.L. Sch. L. Rev. 279 (2007-2008) (referencing Elizabeth M. Schneider, Battered Women & Feminist Lawmaking 180-198 (2000)) (“Victims often need to control the initiation, scope and course of legal claims as a way of protecting their safety and economic security. The civil process provides this kind of control; the criminal process does not.”).
27 See Smith, supra note 4, at 120 (“[C]ivil protective orders . . . have a positive effect on the well-being of victims by giving them a choice of remedies. This choice gives victims control over both their cases and, more importantly, their lives.”).
28 See Smith, supra note 4, at 115 (“Only the police officer or prosecutor’s office may investigate the charges and arrest the abuser. The prosecutor may decide not to pursue the case and has discretion to dismiss the case.”); see also Rios, supra note 20, at 716 (“Civil restraining orders were . . . developed expressly as a technique for advocates of battered women to circumvent the reluctance of police, prosecutors, and criminal courts to properly handle domestic
Moreover, the act of forcing a victim to testify against his or her abuser can be re-traumatizing and dangerous. Because retaliation may be a credible threat, many domestic violence victims simply refuse to testify against their abusers, making it virtually impossible for a district attorney to successfully prosecute a case.\(^{20}\) Perhaps more importantly, as underscored by the legislative history of Article 8, many people in abusive relationships have complicated feelings toward their abusers—while they want the violence to end, they may still feel fondness for their partner and not want to see him or her punished.\(^{30}\)

Further, Criminal Court access requires police involvement, and thus may prevent the most vulnerable people from seeking protection. Victims who are racial and ethnic minorities, immigrants, and same-sex couples may fail to call on the Criminal Justice System for protection for fear of experiencing discrimination or harmful collateral consequences. People of color may hesitate to contact the police for fear of racial bias within the Criminal Justice System.\(^{31}\) Lesbian, gay, bisexual, and transgender survivors of domestic violence, like Trent, may fear that no one will understand the nature of the abuse because of misconceptions that two people of the same sex automatically share equal standing, and therefore cannot be in abusive relationships.\(^{32}\) Immigrant women may fear that either they or their partners will be deported if arrested.\(^{33}\) Teenagers and elders may also fail to

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\(^{20}\) Many abusers threaten and carry out greater harm when a victim attempts to call the police, which is part of the reason why many victims hesitate to contact the police when in danger. Additionally, unlike with civil protective orders, victims who testify against their abusers in Criminal Court may be in danger of continued or aggravated abuse because “the plaintiff in a criminal process usually has to live with the defendant while he is awaiting trial—and even a conviction will not necessarily separate the batterer from the victim, if little or no jail time is ordered.” Finn, supra note 20, at 44.


\(^{31}\) See Barbara Fedders, Note: Lobbying for Mandatory-Arrest Policies: Race, Class, and the Politics of the Battered Women’s Movement, 23 N.Y.U. Rev. L. & Soc. Change 281, 292–293 (1997) (“Women in relationships with Black men... confront a legacy of police brutality and disproportionately harsh prosecutorial treatment of Black arrestees. Particularly when these women are also Black and have grown up in a community with an excessive police presence, they may view the police with great suspicion and may not find the arrest of their batterer to embody support for them. Thus, any feelings of relief that an arrest of their batterers might otherwise bring may be trumped by feelings of guilt, fear and concern about the fate of their partners in the criminal justice system.”); see also CERD Report, supra note 23, at 88 (“Minority victims may be further deterred from reporting abuse if they feel their abusers will face unfair treatment, such as longer sentences, due to racial bias in the system.”); see also David B. Mustard, Racial, Ethnic, and Gender Disparities in Sentencing: Evidence from the U.S. Federal Courts, 44 J.L. & Econ. 285 (2001) (“Blacks and males not only receive longer sentences but also are less likely to receive no prison term when that option is available, more likely to receive upward departures, and less likely to receive downward departures. When downward departures are given, blacks and males receive smaller adjustments than whites and females.”).

\(^{32}\) Duthu, supra note 16, at 30 (“Both the heterosexual and homosexual communities entertain the common misconception that two men or two women involved in a violent incident are 'just fighting' or engaged in ‘mutual battering’... As a result, the victim and others, such as friends, police officers, prosecutors, doctors, and counselors, may inaccurately believe the victim was the aggressor, does not deserve help, or shares responsibility for the abuse... The myth that the batterer will always be bigger and physically stronger than the victim only focuses on physical abuse and fails to recognize that domestic violence is really about power and control maintained by numerous forms of abuse in the relationship.”).

\(^{33}\) Harris, supra note 23, at 50 (“Any interaction with the criminal justice system can have permanent consequences for immigrants seeking permanent residence or citizenship in this country.”); cf. Theo Liebmann, Family Court and the Unique Needs of Children and Families Who Lack Immigration Status, 40 Colum. J.L. & Soc. Probs. 583 (2007) (discussing the potential dangers Family Court can also pose to non-documented immigrant families and why Family
contact the police due to vulnerability associated with their age.\textsuperscript{34} Given all of these concerns, perhaps it should not be surprising that “a woman who is physically abused by her intimate partner reports it to the police only 55% of the time.”\textsuperscript{35} Civil orders offer protection to the other 45%.

There is no single cause of domestic violence and there is no single solution. Yet precluding certain types of people from obtaining civil orders of protection reinforces the stigmatization, isolation, and disempowerment that cause many people to remain in abusive relationships.\textsuperscript{36} Without granting access to civil orders of protection for couples who are living together or dating, New York State will never effectively protect many domestic violence victims from abuse.

C. New York’s Current System Provides Domestic Violence Victims with Inadequate Protection

New York’s current approach to conducting “Family Offense Proceedings,” as specified in Article 8, demonstrates a commitment to fighting domestic violence in theory, but not in practice. While the New York legislature has pronounced that “there are few more prevalent or more serious problems confronting the families and households of New York than domestic violence,”\textsuperscript{37} the definition of domestic violence victim used in Article 8 is far too restrictive to address the problem because it precludes many people from obtaining civil protective orders.

The original drafters of the Family Court Act left the meaning of domestic violence victims open to broad interpretation.\textsuperscript{38} The definition was modified in 1977—to mean “persons legally married to one another” and “persons related by consanguinity or affinity”—to close a loophole in the law at that time. Since Article 8 originally required criminal courts to transfer jurisdiction to family courts for family offenses, abusive men frequently tried to exploit the statute to escape

\textsuperscript{34} See National Coalition Against Domestic Violence, Fact Sheet: Dating Violence, http://www.ncadv.org/files/datingviolence.pdf (citing Christian Molidor, Gender and Contextual Factors in Adolescent Dating Violence (Feb. 2000)) (finding that “over 30% of teenagers do not tell anyone about being victimized by their partner—less than 3% report the abuse to police or another authority figure and only 3% tell a family member about the violence”); see also Karl Pillemer & David Finkelhor, The Prevalence of Elder Abuse: A Random Sample Survey, 28 The Gerontologist 51-57 (1988) (finding that only 1 out of 14 cases of elder abuse is reported to authorities).

\textsuperscript{35} Lockie, supra note 18, at 236.

\textsuperscript{36} Given that domestic violence has long been seen as a private matter—something that occurs and should remain in the home—many survivors of domestic violence stay in abusive situations because they feel powerless and alone. In response, numerous domestic violence advocates believe that “breaking the silence” surrounding domestic violence is an important component of survivors’ personal healing process as well as an essential component of raising awareness about the prevalence of sexual and gender-based violence. While advocates frequently organize rallies and marches in order to provide survivors with a safe space to discuss their experiences, civil protective orders also serve the function of allowing survivors of domestic violence to name the abuse they have experienced while also taking proactive steps to end the violence. See generally Take Back the Night, Breaking the Silence Through Storytelling, http://www.takebackthenight.org/net.html.


\textsuperscript{38} See People v. Dugar, 235 N.Y.S.2d 152, 153 (1962) (“The terms ‘family’ and ‘household’ are not defined in the statute. Their meaning must therefore be determined by reference to general usage, decisions construing those terms in other statutes, and the broad remedial purpose of the statute as a whole.”); see also Douglas J. Besharov, Practice Commentaries: Members of the Same Family or Household, N.Y. Fam. Ct. Act § 812 (McKinney 1998) (commenting that the original definition sparked lots of litigation because it was not originally defined).
criminal punishment. Because Family Court and Criminal Court now have concurrent jurisdiction over family offense cases involving family and household members, these concerns are no longer relevant. The jurisdictional limitations are no longer in anyone's best interest.

In contrast to New York, most other states have responded to the widespread dangers imposed by domestic violence by changing their laws governing civil protective orders to be more inclusive. Currently, thirty-seven states and the District of Columbia have adapted to the realities of family violence by allowing domestic violence victims to obtain protective orders against romantic partners, regardless of cohabitation or marital status. Over one-third of all states in the country changed their laws to protect against abuse by dating and intimate partners over a decade ago, and another third have adopted these protections since. New York is increasingly out of step with the rest of the country.

II. Expanding Access to Family Court Provides Necessary Protections for Victims of Domestic Violence

Senate Bill 6783 expands the definition of "family and household members" to include people "who are or have been in a dating or intimate relationship whether or not they have ever lived together." This language expands protection to all romantic partners. It does not rely on marriage or children to trigger intimate relationship status in the eyes of the law, and thus reflects the variety of people's lived experiences.

Resistance to Senate Bill 6783 has stemmed from worries about financial and resource constraints, logistical concerns related to difficulty "proving" the difference between dating relationships and casual relationships, and fears about the definitional implications of expanding access to Family Court.

These concerns are misguided for several reasons. First, the revised definition of domestic violence victim, which would include people who are or have been in a dating or intimate relationship, is sufficiently clear that judges will be able to distinguish between dating partners and people who lack a romantic relationship. Second, a limited definition of family offense victims for domestic violence protections contradicts New York's broader definitions of "domestic violence victims" in other contexts. Third, maintaining unrealistic definitions of domestic violence in Family Court, an institution designed to help victims "stop the violence, end the family disruption and obtain protection," only exacerbates family and social instability. Finally, even assuming a slight

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39 N.Y. Sess. Law Serv. 449 (1977); see Smith, supra note 4, at 129 (explaining that "the problem [with the original phrasing] ... was that abusers advocated this more expansive definition of family or household to avoid the sanctions of criminal court").


41 See Appendix B, "National Domestic Violence Statutes."

42 Id.

43 Karen Burstein, Naming the Violence: Destroying the Myth, 58 Alb. L. Rev. 961, 962 fn. 5 (1995); compare Act of July 19, 1977, ch. 449, 1977 N.Y. Laws 632, 633 with Act of July 7, 1981, ch. 416, § 14, 1981 N.Y. Laws 829. The language was changed to "stop the violence, end family disruption and obtain protection" in 1981 as a result of work of the Task Force on Domestic Violence. See also N.Y. Crim. Proc. Law §§ 530.11 (2) (McKinney 2008), stating: (b) That a family court proceeding is a civil proceeding and is for the purpose of attempting to stop the violence, end family disruption and obtain protection... (c) That a proceeding in the criminal courts is for the purpose of prosecution of the offender and can result in a criminal conviction of the offender.
increase in caseloads, resource constraints do not justify leaving some victims of intimate partner violence without the protections needed to prevent future attacks. By excluding many teenagers, dating partners, same-sex partners, and elderly couples from family court civil protective orders, New York is denying necessary precautions to particularly vulnerable populations.

A. Judges Will Be Able To Distinguish Between Dating Partners and People Who Lack a Romantic Relationship

Senate Bill 6783 qualifies the meaning of “dating relationship” by stating: “For purposes of this article, neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute a ‘dating relationship.’” Concerns over the justiciability of this language are unfounded, as at least twenty-one states have been able to implement statutes that cover “dating relationships” without specific statutory guidance on how this term should be defined. Family Court judges have the appropriate experience, up-to-date training, and common sense to meaningfully implement Senate Bill 6783. The National Council of Juvenile and Family Court Judges facilitates educational programs for judges, court administrators, social and mental health workers, police, probation officers, and others working in family courts throughout the country. Senate Bill 6783 is enforceable as written and can be adopted immediately for effective adjudication by the courts.

B. Establishing Fair Access to Family Court Is a Wise Policy Decision that Brings the Definition of “Family Offense Victim” into Closer Conformity with Other New York Laws

Expanding the eligibility of domestic violence victims to obtain civil protective orders is necessary to bring the New York Family Court Act in line with the definition of “domestic violence victims” used elsewhere in New York domestic violence law and policy. Maintaining inconsistent definitions of “domestic violence victims” hinders effective police enforcement and raises equal protection concerns. It is not acceptable as a matter of state policy to limit the use of Family Court by protecting some victims in romantic relationships and not others.

The New York legislature first expanded the definition of “family offense victim” in the domestic violence context over twenty years ago when it passed the Domestic Violence Prevention Act. The Act—which established statewide emergency shelters and various counseling and support services—broadened the definition of “members of the same family and household” to include: “unrelated persons who are continually or at regular intervals living in the same household or who have [done so] in the past” and “any other category of individuals deemed to be a victim of

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45 See Appendix B “National Domestic Violence Statutes.”
46 See National Council of Juvenile and Family Court Judges, http://www.ncfjc.org/content/view/15/75/ (The NCJFCJ—within a membership of nearly 2,000 judges, commissioners, masters and professionals specializing in family law—provides cutting-edge training, wide-ranging technical assistance, and research to help nation's courts, judges and staff in their important work. The NCJFCJ conducts educational programs throughout the country for judges, court administrators, social and mental health workers, police, probation officers, and others working in the juvenile and family courts. The NCJFCJ also participates in unique advanced degree programs for judges and other court professionals.)
domestic violence as defined by the department in regulation.\textsuperscript{47} This broader definition of domestic violence victims requires Criminal Courts to register criminal protective orders issued to dating and intimate partners with the statewide registry of orders or protection, even though these same victims do not qualify for the necessary protections allotted under the "family offense" jurisdiction.\textsuperscript{48} Similarly, a majority of police departments in New York State define "family relationships" as including: “intimate partners (without a child in common), partners who live together or who have lived together in the past, or persons in current or former dating or intimate relationships.”\textsuperscript{49} Surveys indicate that a majority of prosecutors and probation departments also use a broader definition of domestic violence victim to include unmarried partners.\textsuperscript{50} Even the New York Office of the Attorney General defines domestic violence as including: “persons sharing or formerly sharing a common dwelling” and “persons having or having had a dating or engagement relationship.”\textsuperscript{51} Given widespread acknowledgement that domestic violence does not only affect people who are married or have a child in common, the Family Court Act’s continued restrictions on “family offense victims” are untenable.

The limited definition of “family offense victims” currently used in Family Court Article 8 also conflicts with New York case law in other, similar realms. The New York State Court of Appeals has held that the State Constitution establishes a fundamental right to choice of family life that is expansive and more protective than the United States Constitution.\textsuperscript{52} In some contexts—housing, employment, and adoption—New York has granted the term “family” broad interpretation and recognized the realities of family life when doing so would “avoid objectionable consequences,” “prevent hardship and injustice,” and “effectuate the purpose of a remedial statute ‘designed to promote the public good.’”\textsuperscript{53} In Braschi v. Stahl Associates Co., for example, the New York Court of

\textsuperscript{47} NY Domestic Violence Prevention and Services Act of 1987, Soc. Serv. L. 459-a(2) (Mckinney 2008).
\textsuperscript{48} N.Y. Crim. Proc. Law § 530.13 (5): “Orders of protection issued to protect victims of domestic violence, as defined in section four hundred fifty-nine-a of the social services law, shall be on uniform statewide forms that shall be promulgated by the chief administrator of the courts in a manner to ensure the compatibility of such forms with the statewide registry of orders of protection and warrants established pursuant to section two hundred twenty-one-a of the executive law.”
\textsuperscript{50} See Family Protection and Domestic Violence Intervention Act of 1994: Evaluation of the Mandatory Arrest Provisions: Final Report, 2001 ("[D]iscussions and surveys with police officials have revealed that a majority of the police departments are already utilizing a broader definition because police officers frequently experience difficulty in determining the exact nature of the relationship when they are at the scene. Further, the common-sense definition of who constitutes a victim of domestic violence in the eyes of most police and others in the criminal justice system goes beyond those who fit that narrow definition afforded by law. Not surprisingly, a majority of prosecutors and probation departments surveyed indicated that they had adopted a broader definition of [sic] ["domestic violence’ cases to include, most typically, offenses involving unmarried partners. It is questionable whether we can ever fully understand the nature and extent of domestic violence in this state if these inconsistencies in definitions are not remedied."]).")
\textsuperscript{52} Pamela Katz, The Case For Legal Recognition Of Same-Sex Marriage, 8 J.L. & Pol’y 61 (1999).
\textsuperscript{53} Warne, supra note 26, at 303 (referencing Braschi v. Stahl Associates Co., where: “the Court of Appeals mandated broad interpretation of New York City’s rent control regulations to recognize same-sex partners as ‘families’ and to qualify them for protection from eviction when the lease-holding partner dies.”).

Regarding employment, New York became one of five states to offer domestic partnership benefits to state employees. New York leadership on both the state and local levels share these progressive standards. Former Governors Mario Cuomo and George Pataki have issued Executive Orders to prohibit discrimination on the basis of sexual orientation in state employment, and to provide benefits to unmarried domestic partners of state employees. Exec. Order No. 33, 9 NYCRR 5.33 (1996), Exec. Order 28, 9 NYCRR 4.28 (1983). In addition, after the attacks on the World
Appeals first mandated a broad interpretation of “families” so as to grant same-sex couples protection from eviction when the lease-holding partner dies. The interests at stake for domestic violence victims are as compelling as avoiding eviction, if not more so. Individuals living in family units that are excluded from Family Court stand to suffer virtually identical injuries and collateral consequences from abuse as those families permitted to use the family court. Therefore, they should also expect to have the same rights and protections from abuse as any legally recognized victim.

Within just the past few years, several studies and commissions analyzing the effects of domestic violence in New York have also recognized the need for expanding access to Family Court for civil protective orders. Scholars have called attention to the need for legislation to mirror the realities of family life through family law. The scope of family law adjudication today “justifies the need for decision makers to view family legal problems with an expansive focus.” Indeed, New York legislators have a mandate to correct the current law’s inadequacies by expanding protection to the most vulnerable domestic violence victims in the state.

C. Establishing Fair Access to Family Court Increases Family Stability

The New York Family Court Act’s narrow definition of domestic violence victim also conflicts with Article 8’s stated purpose, which was amended in 1981 from “keep[ing] the family unit intact” to “stop[ping] the violence, end[ing] family disruption, and obtain[ing] protection.” Enabling intimate and dating partners to secure civil protective orders in Family Court furthers the aims of Article 8 by allowing domestic violence victims to secure protection from abusive partners; excluding them exacerbates family and social instability.

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54 See Paris Baldacci, Pushing the Law to Encompass the Reality of Our Families: Protecting Lesbian and Gay Families From Eviction from Their Homes—Braschi’s Functional Definition of “Family” and Beyond, 21 Fordham Urb. L.J. 973 (1994).
55 Id.
56 See Family Protection and Domestic Violence Intervention Act of 1994: Evaluation of the Mandatory Arrest Provisions: Final Report, 2001, available at http://opdv.state.ny.us/criminal_justice/police/finalreport/evaluation.html#legrecom (partially justifying its recommendation to expand the definition of family to include nonmarried couples by saying: “using this statutory definition of family and household to connote who is considered a victim of domestic violence creates the problem of inconsistency in police response and raises legitimate equal protection concerns by excluding many victims who are not legally married to or who do not have children with the abuser”); see also Adam Sparks, Intra-Family Disputes 40 Colum. J.L. & Soc. Probs. 479, 482 (2007) (discussing the recommendation of a working group created by the Justice Center of the New York County Lawyers’ Association) (finding that “[t]he group also agreed that the New York Legislature should expand the definition of families to include all intimate partners in civil family offense proceedings”); see also New York Unified Court System, Matrimonial Commission, Matrimonial Commission Report to the Chief Judge of the State of New York 62 (2006), http://www.courts.state.ny.us/reports/matrimonialcommissionreport.pdf (discussing how same-sex couples experience unfair burdens when faced with domestic violence and requesting “that consideration be given to a legislative amendment extending the jurisdiction of Family Court to address the issue”).
Without the broad remedies provided through a civil order of protection, domestic violence victims who attempt to end their abusive relationships face increased risks of losing their housing, their economic support, their jobs, and their lives. Since criminal protective orders are more punitive than preventative, many teenagers, dating partners, elderly couples, and same-sex couples cannot end the violence in their lives until their abusers inflict significant harm upon them. For all the victims who simply need practical help escaping from life-threatening abuse, Family Court Article 8 is the solution. Just as the rationale behind civil protective orders has evolved, so too must New York’s law.

D. Resource Constraints Do Not Justify Limiting Access to Family Court

Concerns that expanding access to civil protective orders for “intimate and dating partners” will overburden New York’s Family Courts are distorted and unacceptable as a matter of state policy. Family Courts in New York, like virtually all courts in the United States, deal with crowded dockets, inefficient operations, delays, and a lack of resources. Family offense cases currently comprise only about 7.5% of the New York City Family Court caseload, however, as compared to child support proceedings which comprise 55% of the caseload, child custody and visitation cases which comprise 26.5%, and child protective proceedings which comprise 6.5%. Given that family offense proceedings comprise such a small proportion of Family Court proceedings, it is unrealistic to assume that expanding access to civil protective orders to people who are in intimate or dating relationships will impose an undue burden on the Family Court system.

In addition, allowing family courts to grant civil protective orders may conserve system-wide resources by providing sufficient protection to end an abusive situation without police involvement. Access to Family Court gives victims the opportunity to seek protection without having to wait for abuse to escalate. Studies have shown that civil protective orders may effectively deter an abuser from continuing the violence. Civil protective orders often help to convey to abusers that their violence is not acceptable. A 2004 report analyzing the effectiveness of civil orders of protection found a significant decline in the probability of abuse followed the issuance of civil protective orders. While 68% of the women surveyed reported physical violence prior to filing for a civil order, only 23% reported physical violence after filing. The civil protective order’s deterrent function may therefore conserve financial expenditures and other state resources associated with future criminal

59 Babb, supra note 57, at 490. These potential problems were identified even before the New York Family Court was established, yet the need for providing substantive protections to family and household members was recognized as outweighing procedural burdens. See Monrad G. Paulsen, Book Review: Children and Families in the Courts of New York City, 103 U. Pa. L. Rev. 466 (1954) (concluding that “family problems require a specialized court presided over by an interested judge who has a professional staff at his command for purposes of both fact-finding and treatment . . . but despite the admitted validity of the writers’ conclusions, money will be a great problem”); see also Jane Spinak, Adding Value to Families: The Potential of Model Family Courts, 2002 Wis. L. Rev. 331 (summarizing a study conducted on New York City’s Children’s Court in 1953 by discussing how “Family Court is not unusual in facing these [case volume, delay, and congestion] challenges”).
61 Carlson et al., supra note 18, at 215.
62 Black, supra note 9.
63 Id. at 214, see also supra note 17.
justice interventions and other costs associated with abuse.\textsuperscript{64}

If the definition of "family and household member" is expanded, Family Court judges will also be able to refer some family offense cases to an Integrated Domestic Violence Court (IDV Court), further diminishing strains on Family Court.\textsuperscript{65} Integrated Domestic Violence Courts are one of New York's most innovative attempts to combat domestic violence through handling all family, criminal, and matrimonial matters in one courthouse. They were established in 1996 in response to "a historic problem in the court system, which requires domestic violence victims and their families to appear in different courts before multiple judges, often located in different parts of a county, to address their legal issues."\textsuperscript{66} By adopting a "one family—one judge" model, IDV courts aim to reduce the number of court appearances, improve the consistency and quality of judicial decisions, and improve offender accountability.\textsuperscript{67} Since their establishment, IDV Courts have handled close to 60,000 cases.\textsuperscript{68} They are also widely accessible; there are 38 IDV Courts in the State and 90% of New York residents live in counties with one.\textsuperscript{69} Due to the current definition of "family and household member" used in Article 8, however, intimate and dating partners are precluded from the New York Court System's best efforts toward combating domestic violence.

Even a small increased burden on Family Court as a result of Senate Bill 6783 should not justify restricting access to civil protective orders and potentially costing the lives of domestic victims throughout the state. According to statistics collected by the New York State Office for the Prevention of Domestic Violence, "between 1993 and 1999, an intimate was responsible for 32% of homicides of women age 20–24 and almost 40% of homicides of women age 35–49."\textsuperscript{70} The lives of New Yorkers are more important than slight procedural delays. While Family Court's limited


\textsuperscript{65} New York State Unified Court System, Integrated Domestic Violence Courts, http://www.courts.state.ny.us/ip/domesticviolence/keyprinciples.shtml#Jurisdiction (last visited May 16, 2008) ("These courts reduce the need for abused women to go to different courts and appear before different judges to get the help they need. . . but you must be eligible to go to Family Court to have your case handled in an Integrated Domestic Violence Court."); \textit{see also} Rules of the Chief Administrator of the Courts, part 141.1(b) ("An IDV-eligible case shall refer to both of the following when they are simultaneously pending in the county: a domestic violence case commenced in a criminal court and a case commenced in Supreme or Family Court that involves a party or witness in the domestic violence case.").


\textsuperscript{67} Id.; \textit{see} New York State Division of Criminal Justice Services, \textit{New York State Domestic Violence Program Fact Sheet}, http://criminaljustice.state.ny.us/ofpa/domviolcrfactsheet.htm (last visited May 28, 2008).


resources may be strained, inadequate funding and administrative difficulties should not obstruct a victim’s access to protection.

CONCLUSION

As a New York State Senator, you have the opportunity to save lives. By expanding access to civil protective orders for intimate and dating partners, you can enable Family and Criminal Courts to finally respond to the realities confronting domestic violence victims. Senate Bill 6783 provides a way to more effectively realize the aims of Article 8: to help all domestic violence victims stop life-threatening violence, to end family disturbances, and to obtain much-needed protection.

Senate Bill 6783 is on Senate Third Reading Calendar #686 and waiting to be placed on an active list by the Majority Leader (Senator Bruno). S.6783 must be moved to the active list and passed immediately. Every day that passes is another day that people like Eva and Trent have to wonder whether their partner’s threats about torture and murder will turn into realities. You can help protect domestic violence victims by publicly supporting Senate Bill 6783. Consider co-sponsoring this bill, urge Senator Bruno to introduce the bill on the Senate floor, convince your colleagues to support this bill, call for a vote—push to pass the Bill today!

When recently asked about her experience trying to navigate the inconsistent legal standards governing domestic violence victims in New York, Eva stated: “I hope that one day New York will be able to send a clear message to all domestic violence survivors; ‘You can escape alive. Don’t wait for death!’” Help fulfill Eva’s dream to live in her home state of New York free from dating and intimate partner violence.

71 See Joseph M. Lauria & Sharon S. Townsend, A Decade Of Reform In The New York State Family Courts, 80 N.Y.St. B. J. 46 (2008) (fulfilling the court’s mission to protect the safety and best interests of each child and individual who came before the court has been a real challenge without additional and commensurate judicial resources).
APPENDIX A:

OTHER USEFUL RESOURCES RELATING TO THE NEED FOR FAIR ACCESS TO FAMILY COURT


Appendix B:

NATIONAL DOMESTIC VIOLENCE STATUTES

- Every state on this chart allows for some kind of civil protective order for people who cohabitate.


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<td>Alabama</td>
<td>Ala. Code §30-5-2(b)</td>
<td>(4) Family or Household members. A spouse, former spouse, parent, child, or any other person related within the 5th degree consanguinity or affinity or common-law marriage, a person with whom the plaintiff has a child in common, or a present or former household member</td>
<td>Yes</td>
<td>No</td>
<td>N/A</td>
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<tr>
<td>Alaska</td>
<td>AS §18.66.990(5)</td>
<td>(5) &quot;Household member&quot; includes: (A) adults or minors who are current or former spouses; (B) adults or minors who live together or who have lived together; (C) adults or minors who are dating or who have dated; (D) adults or minors who are engaged in or who have engaged in a sexual relationship; (E) adults or minors who are related to each other up to the fourth degree of consanguinity, whether of the whole or half blood or by adoption, computed under the rules of civil law;</td>
<td>Yes</td>
<td>Yes (1996)</td>
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<td>Arizona</td>
<td>A.R.S. §13-3601 (A)</td>
<td>(F) adults or minors who are related or formerly related by marriage; (G) persons who have a child of the relationship; and (H) minor children of a person in a relationship that is described in (A)-(G) of this paragraph.</td>
<td>Yes</td>
<td>No</td>
<td>N/A</td>
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<td>Arkansas</td>
<td>A.C.A. §9-15-103(4)</td>
<td>(4) &quot;Family or household members&quot; means spouses, former spouses, parents and children, persons related by blood within the fourth degree of consanguinity, any children residing in the household, persons who presently or in the past have resided or cohabited together, persons who have or have had a child in common, and persons who are presently or in the past have been in a dating relationship together.</td>
<td>Yes</td>
<td>Yes (2005)</td>
<td>No</td>
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<td>California</td>
<td>Cal. Fam. Code §6211</td>
<td>In California, anyone over the age of 12 can apply for a DVRO so long as their abuser is: • a current or former spouse; • a current or former cohabitant; • a person with whom the petitioner is having or has had a dating or engagement relationship; • a person with whom the petitioner has had a child; • a parent; • anyone else related by blood or marriage.</td>
<td>Yes</td>
<td>Yes (1993)</td>
<td>Yes</td>
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<td>Colorado</td>
<td>C.R.S.A. 13-14-101(2)</td>
<td>(2) &quot;Domestic abuse&quot; means any act or threatened act of violence that is committed by any person against another person to whom the actor is currently or was formerly related, or with whom the actor is living or has lived in the same domicile, or with whom the actor is involved or has been involved in an intimate relationship.</td>
<td>Yes</td>
<td>Yes (1999)</td>
<td>No</td>
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<td>Connecticut</td>
<td>Conn. Gen. Stat. § 46b-38a</td>
<td>&quot;Family or household member&quot; means (A) spouses, former spouses; (B) parents and their children; (C) persons eighteen years of age or older related by blood or marriage; (D) persons sixteen years of age or older other than those persons in subparagraph (C) presently residing together or who have resided together; (E) persons who have a child in common regardless of whether they are or have been married or have lived together at any time; and (F) persons in, or have recently been in, a dating relationship</td>
<td>Yes</td>
<td>Yes (1999)</td>
<td>No</td>
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| Delaware   | Del. Code Ann. Tit. 10 § 1041                                           | "Domestic violence" means abuse perpetrated by one member against another member of the following protected classes:  
- Family, as that term is defined in § 901(9) of this title, regardless, however, of state of residence of the parties; or  
- Former spouses; persons cohabitating together who are holding themselves out as a couple, with or without a child in common; persons living separate and apart with a child in common; or persons in a current or former substantive dating relationship.  
- For purposes of this paragraph, neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute a substantive dating relationship. Factors to consider for a substantive dating relationship may include the length of | Yes               | Yes (2007)                                    | Yes                                       |
|---------------|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|-----------------------------------------------|----------------------------------------|
| District of Columbia | D.C. Code Ann. § 16-1001 | The term "intrafamily offense means an act punishable as a criminal offense committed by an offender upon a person:  
- Related by blood, legal custody, marriage, domestic partnership, having a child in common, or with whom the offender shares or has shared a mutual residence;  
- Maintain or maintained a romantic relationship not necessarily including a sexual relationship; provided, that a person seeking a protection order under this subparagraph shall reside in the District of Columbia or the underlying intrafamily offense shall have occurred in the District of Columbia;  
- The victim was or is married to, a domestic partner of, divorced or separated from, or in a romantic relationship, not necessarily including a sexual relationship, with a person who was or is married to, a domestic partner of, divorced or separated from, or in a romantic relationship, not necessarily including a sexual relationship, with the offender; or  
- The victim was stalked or is being stalked by the offender. | Yes | Yes (1994 & 2007) | No |
<p>| Florida       | F.S.A. 741.28(3)          | Family or household member means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit. | Yes | No | N/A |
| Georgia       | Ga. Code Ann. 19-13-1     | The term &quot;family violence&quot; means... acts between past or present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons living or formerly living in the same household... | Yes | No | N/A |</p>
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<th>Hawaii</th>
<th>HRS 586-1</th>
<th>Family or household member means spouses; or reciprocal beneficiaries, former spouses or former reciprocal beneficiaries,</th>
<th>Yes</th>
<th>Yes (2000)</th>
<th>Yes</th>
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| Idaho     | I.C. 39-6303(1) and (2)                               | (1) Domestic violence means the physical injury, sexual abuse or forced imprisonment or threat thereof of a family or household member, or of a minor child by a person with whom the minor child has had or is having a dating relationship, or of an adult by a person with whom the adult has had or is having a dating relationship. (2) Dating relationship, for the purposes of this chapter, is defined as a social relationship of a romantic nature. Factors that the court may consider in making this determination include:  
(a) The nature of the relationship; 
(b) The length of time the relationship has existed; 
(c) The frequency of interaction between the parties; and 
(d) The time since termination of the relationship, if applicable.                                                                                                                                                                                                                         | Yes               | Yes (2000 & 2002)                              | Yes                                                                      |
| Illinois  | 750 ILCS 60/103(6)                                    | (a) The following persons are protected by this Act:  
(i) any person abused by a family or household member;  
(ii) any high-risk adult with disabilities who is abused, neglected, or exploited by a family or household member;  
(iii) any minor child or dependent adult in the care of such person; and  
(iv) any person residing or employed at a private home or public shelter which is housing an abused family or household member.  

**Family or household members** include:                                                                                                                                                                                                                                                                                                    | Yes               | Yes (1992)                                    | No                                                                       |
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<td>Indiana</td>
<td>IC 34-26-5-2</td>
<td>Former or current spouse, former or current person with whom the respondent resided while in an intimate relationship, or a person with whom the respondent has a child.</td>
<td>Yes</td>
<td>No</td>
<td>N/A</td>
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| Kansas  | Kan. Stat § 60-3102 | 2. “Domestic abuse” means:  
a. The assault is between family or household members who resided together at the time of the assault.  
b. The assault is between separated spouses or persons divorced from each other and not residing together at the time of the assault.  
c. The assault is between persons who are parents of the same minor child, regardless of whether they have been married or have lived together at any time.  
d. The assault is between persons who have been family or household members residing together within the past year and are not residing together at the time of the assault.  
e. The assault is between persons who are in an intimate relationship or have been in an intimate relationship and have had contact within the past year of the assault. | Yes               | Yes (2002)                                      | Yes                                      |
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<td>Kentucky</td>
<td>KY. Rev. Stat. §§ 403.720 &amp; 403.725</td>
<td>“Domestic violence and abuse” occurs between “any family member or member of an unmarried couple.” (2) “Family member” means a spouse, including a former spouse, a parent, a child, a stepchild, or any other person related by consanguinity or affinity within the second degree; and (3) Member of an unmarried couple means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together.</td>
<td>Yes</td>
<td>No</td>
<td>N/A</td>
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<td>Louisiana</td>
<td>LA. Rev. Stat § 46:2132</td>
<td>Family members means spouses, former spouses, parents and children, stepparents, stepchildren, foster parents, and foster children. Household members means any person of the opposite sex presently or formerly living in the same residence with the defendant as a spouse, whether married or not, who is seeking protection under this Part. If a parent or grandparent is being abused by an adult child, adult foster child, or adult grandchild, the provisions of this Part shall apply to any proceeding brought in district court.</td>
<td>Yes (for opposite sex couples)</td>
<td>No</td>
<td>N/A</td>
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<td>Maine</td>
<td>19-A M.R.S.A. § 4002</td>
<td>Abuse means the occurrence of the following acts between family or household members or dating partners.</td>
<td>Yes</td>
<td>Yes (2007)</td>
<td>No</td>
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<td><em>Dating partners.</em> &quot;Dating partners&quot; means individuals currently or formerly involved in dating each other, whether or not the individuals are or were sexual partners.*</td>
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<td><em>Family or household members.</em> &quot;Family or household members&quot; means spouses or domestic partners or former spouses or former domestic partners, individuals presently or formerly living together as spouses, natural parents of the same child, adult household members related by consanguinity or affinity or minor children of a household member when the defendant is an adult household member and individuals presently or formerly living together and individuals who are or were sexual partners.*</td>
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<td>Maryland</td>
<td>MD. Code, Fam. Law § 4-501</td>
<td>Holding oneself out to be a spouse is not necessary to constitute &quot;living as spouses.&quot; For purposes of this subsection, &quot;domestic partners&quot; means two unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare.</td>
<td>Yes</td>
<td>No</td>
<td>N/A</td>
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<td>(3) If the person for whom relief is sought is a vulnerable adult, abuse may also include abuse of a vulnerable adult, as defined in Title 14, Subtitle 1 of this article.</td>
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<td>(d) &quot;Cohabiting&quot; means a person who has had a sexual relationship with the respondent and resided with the respondent in the home for a period of at least 90 days within 1 year before the filing of the petition.</td>
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<td>Massachusetts</td>
<td>Mass. Gen. Laws Ann. ch. 209A, § 1</td>
<td>Massachusetts considers violence to be domestic for the purpose of protective orders if the victim and the attacker:</td>
<td>Yes</td>
<td>Yes (1990)</td>
<td>Yes</td>
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<td>- are or were married to one another;</td>
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<td>- are or were <em>residing together</em> in the same household;</td>
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<td>- are or were related by blood or marriage;</td>
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<td>- [have] a child in common regardless of whether they have ever married or lived together; or</td>
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|          |                                              | • are or have been in a *substantive dating or engagement relationship.* The Massachusetts statute, includes criteria to guide judicial determinations of dating relationships. This criteria includes:  
• the length of time of the relationship;  
• the type of relationship;  
• the frequency of interaction between the parties; and  
• if the relationship has been terminated by either person, the length of time elapsed since the termination of the relationship. | Yes          | Yes (1994)                                     | Yes                                    |
| Michigan | Mich Comp. Laws §600.2950                    | (1) ...an individual may petition the family division of circuit court to enter a personal protection order to restrain or enjoin a spouse, a former spouse, an individual with whom he or she has had a child in common, an individual with whom he or she has or has had a *dating relationship, or an individual residing or having resided in the same household as the petitioner.*  
(30)(a) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context. | Yes          | Yes                                           | Yes                                    |
| Minnesota| Minn. Stat §518B.01                          | (b) "Family or household members" means: (1) spouses and former spouses; (2) parents and children; (3) persons related by blood; (4) persons who are presently residing together or who have resided together in the past; (5) persons who have a child in common regardless of whether they have been married or have lived together at any time; (6) a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and (7) persons involved in a significant romantic or sexual relationship.  
In determining whether persons are or have been involved in a significant romantic or sexual relationship under clause (7), the court shall consider the length of time of the relationship, type of | Yes          | Yes                                           | Yes                                    |
|-----------|---------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|-------------------------------------------------|------------------------------------------|
| Mississippi | Miss. Code §93-21-3              | (a) Abuse means the occurrence of one or more of the following acts between family or household members who reside together or who formerly resided together or between individuals who have a current dating relationship.  
(d) Dating relationship means a social relationship of a romantic or intimate nature.                                                                 | Yes              | Yes (2001)                                       | No                                       |
| Missouri  | MO. Rev. Stat. §455.010          | (5) Family or household members, spouses, former spouses, adults related by blood or marriage, adults who are presently residing together or have resided together in the past, an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, and adults who have a child in common regardless of whether they have been married or have resided together at any time. | Yes              | Yes (2000)                                       | No                                       |
| Montana   | MT ST §45-5-206                  | **Partner or family member assault:**  
(a) Family member means mothers, fathers, children, brothers, sisters, and other past or present family members of a household. These relationships include relationships created by adoption and remarriage, including stepchildren, stepparents, in-laws, and adoptive children and parents. These relationships continue regardless of the ages of the parties and whether the parties reside in the same household.  
(b) Partners means spouses, former spouses persons who have a child in common, and persons who have been or are currently in a dating or ongoing intimate relationship with a person of the opposite sex. | Yes              | Yes (1995)                                       | No                                       |
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<th>Nebraska</th>
<th>Neb. Rev. Stat. §42-903</th>
<th>Family or household members includes spouses or former spouses, children, persons who are presently residing together or who have resided together in the past, persons who have a child in</th>
<th>Yes</th>
<th>Yes (2004)</th>
<th>No</th>
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<td>common whether or not they have been married or have lived together at any time, other persons related by consanguinity or affinity, and persons who are presently involved in a <em>dating relationship with each other</em> or who have been involved in a <em>dating relationship with each other</em>. For purposes of this subdivision, <em>dating relationship</em> means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement, but does not include a casual relationship or an ordinary association between persons in a business or social context.</td>
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<td>Nevada</td>
<td>Nev. Rev. Stat. §33.018</td>
<td>1. Domestic violence occurs when a person commits one of the following acts against or upon his spouse, former spouse, any other person to whom he is related by blood or marriage, a <em>person with whom he is or was actually residing</em>, a <em>person with whom he has had or is having a dating relationship</em>, a person with whom he has a child in common, the minor child of any of those persons, his minor child or any person who has been appointed the custodian or legal guardian for his minor child. 2. As used in this section, &quot;dating relationship means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.</td>
<td>Yes</td>
<td>Yes (1997)</td>
<td>Yes</td>
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| New Hampshire| N.H. Rev. Stat. Ann. §173-B                   | Abuse means the commission or attempted commission of one or more of the following acts by a family or household member or current or former sexual or intimate partner:  
X. Family or household member means:  
(a) Spouses, ex-spouses, persons cohabiting with each other, and persons who cohabited with each other but who no longer share the same residence.  
(b) Parents and other persons related by consanguinity or affinity, other than minor children who reside with the defendant. | Yes           | Yes (1999)                                     | No                                                     |
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<td>New Jersey</td>
<td>NJ Stat 2C:25-19</td>
<td>Those who are protected under the Act include those subjected to violence by: • a spouse, • former spouse, • any other present or former household member, • person with whom the victim has a child in common, or • person with whom the victim has had a dating relationship.</td>
<td>Yes</td>
<td>Yes (1994)</td>
<td>No</td>
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<td>New Mexico</td>
<td>NM. Stat Ann. §40-13-2</td>
<td>Household member means a spouse, former spouse, family member, including a relative, parent, present or former step-parent, present or former in-law, child or co-parent of a child, or a person with whom the petitioner has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member for purposes of this section.</td>
<td>Yes</td>
<td>Yes (1987)</td>
<td>No</td>
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<td>North Carolina</td>
<td>N.C. Gen. Stat. §50B</td>
<td>Personal relationship (includes cohabitation and dating for opposite sex partners): (1) Are current or former spouses; (2) Are persons of opposite sex who live together or have lived together; (3) Are related as parents and children, including others acting in loco parentis to a minor child, or as grandparents and grandchildren. For purposes of this subdivision, an aggrieved party may not obtain an order of protection against a child or grandchild under the age of 16; (4) Have a child in common; (5) Are current or former household members; (6) Are persons of the opposite sex who are in a dating relationship or have been in a dating relationship. For purposes of this subdivision, a dating relationship is one wherein the parties are romantically involved over time and on a continuous basis during the course of the relationship. A casual acquaintance or ordinary fraternization between persons in a business or social context is not a dating relationship.</td>
<td>Yes</td>
<td>Yes (1997)</td>
<td>No</td>
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<td>North Dakota</td>
<td>N.D. Cent. Code § 14-07.1-02</td>
<td>Family or household member means: • spouse, family member, former spouse, parent, child, persons related by blood or marriage; • persons who are in a dating relationship; • persons who are presently residing together or who have resided together in the past; • persons who have a child in common regardless of whether they are or have been married or have lived together at any time, and, • for the purpose of the issuance of a domestic violence protection order, any other person with a sufficient relationship to the abusing person as determined by the court under section 14-07.1-02.</td>
<td>Yes</td>
<td>Yes (early 1990s)</td>
<td>No</td>
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<td>Ohio</td>
<td>Ohio Rev. Code Ann. § 3113.31</td>
<td>Family our household member: Any of the following who are or have resided together, former or current spouse, parent or step parent, child or step child, persons related by blood or marriage; persons who have resided together for the last five years, persons with a child together even if they never lived together.</td>
<td>Yes</td>
<td>No</td>
<td>N/A</td>
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<td>Oklahoma</td>
<td>Okla. Stat. Tit. 22, § 60.2</td>
<td>Family of household members or those who are in a dating relationship. Family of household members means: a. spouses, b. ex-spouses, c. present spouses of ex-spouses, d. parents, including grandparents, stepparents, adoptive parents and foster parents, e. children, including grandchildren, stepchildren, adopted children and foster children, f. persons otherwise related by blood or marriage.</td>
<td>Yes</td>
<td>Yes (1995)</td>
<td>No</td>
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| Oregon       | Or. Rev. Stat. Ann. § 107.705                | *g. persons living in the same household or who formerly lived in the same household, and*  
   *h. persons who are the biological parents of the same child, regardless of their marital status, or whether they have lived together at any time. This shall include the elderly and handicapped.* | Yes          | Yes (1993)                                    | Yes 1993                               |
| Pennsylvania | 23 Pa. C.S.A. § 6102                          | In order to apply for a PFA in Pennsylvania, an adult (over 18) or emancipated minor must need protection from a "family or household member," who is defined as:  
   *a current or former spouse, or someone who lives/lived as a spouse,*  
   *parents or a children,*  
   *other people related by blood or marriage,*  
   *a current or former sexual or intimate partner,* or  
   *a brother or sister.*                                                                                                               | Yes          | Yes (1988)                                    | No                                     |
| Rhode Island | R.I. Gen. Laws § 8-8.1-1(3)                  | For civil court:  
   *cohabitants* (from past 3 years);  
   *persons in a substantive dating or engagement relationship* within the past year                                                                                                                 | Yes          | Yes (1994)                                    | Yes                                    |
|              |                                              | For Family Court:  
   *spouse or former spouse;*  
   *person related by blood or marriage;*  
   *child in common;*  
   *minor in substantive dating or engagement relationship*                                                                                                                                    |              |                                               |                                        |
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<td>S.C. Code Ann. § 20-4-20</td>
<td>Cohabitants means emancipated minors or persons eighteen (18) years of age or older, not related by blood or marriage, who together are not the legal parents of one or more children, and who have resided together within the preceding three (3) years or who are residing in the same living quarters. Domestic abuse shall be determined by the court's consideration of the following factors: (i) The length of time of the relationship; (ii) The type of the relationship; (iii) The frequency of the interaction between the parties; (iv) Attempting to cause or causing physical harm; (v) Placing another in fear of imminent serious physical harm; (vi) Causing another to engage involuntarily in sexual relations by force, threat of force, or duress; or (vii) stalking or cyberstalking.</td>
<td>Yes (for opposite sex couples)</td>
<td>No</td>
<td>N/A</td>
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<td>South Dakota</td>
<td>S.D. Codified Laws § 25 - 10-1</td>
<td>(2) Family or household members, spouses, former spouses, or persons related by consanguinity, adoption, or law, persons living in the same household, persons who have lived together, or persons who have had a child together</td>
<td>Yes</td>
<td>No</td>
<td>N/A</td>
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<td>Tennessee</td>
<td>Tenn. Code Ann. § 36:3-601</td>
<td>(5) Domestic abuse victim means any person who falls within the following categories: (A) Adults or minors who are current or former spouses; (B) Adults or minors who live together or who have lived together; (C) Adults or minors who are dating or who have dated or who have or had a sexual relationship, as used herein &quot;dating&quot; and &quot;dated&quot; do not include fraternization between two (2) individuals in a</td>
<td>Yes</td>
<td>Yes (1997)</td>
<td>No</td>
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| Texas | Tex. Fam. Code Ann. §§ 71.004-71.006 | Adult member of the family or household or of the dating relationship—
**Dating relationship** means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of:
(1) the length of the relationship;
(2) the nature of the relationship; and
(3) the frequency and type of interaction between the persons involved in the relationship.

A family includes individuals related by consanguinity or affinity, individuals who are former spouses of each other, individuals who are the biological parents of the same child, without regard to marriage, and a foster child and foster parent, whether or not those individuals reside together. Tex. Fam. Code Ann. § 71.003,

A household is a unit composed of persons living together in the same dwelling, whether or not they are related to each other. A member of a household includes a person who previously lived in a household. | Yes | Yes (2001) | Yes |
| Utah | Utah Code Ann. § 30-6-1 | (2) Cohabitant means an emancipated person pursuant to Section 15-2-1 or a person who is 16 years of age or older who:
(a) is or was a spouse of the other party;
(b) is or was living as if a spouse of the other party;
(c) is related by blood or marriage to the other party;
d) has one or more children in common with the other party;
(e) is the biological parent of the other party's unborn child; or
(f) resides or has resided in the same residence as the other party. | Yes | No | N/A |
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<td>Vermont</td>
<td>Vt. Stat. Ann. Tit. 15, § 1101(5)</td>
<td>Family or household member: persons who, for any period of time, are living or have lived together, are sharing or have shared occupancy of a dwelling, are engaged in or have engaged in a sexual relationship, or minors or adults who are dating or who have dated.</td>
<td>Yes</td>
<td>Yes (1997)</td>
<td>Yes</td>
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<td>Virginia</td>
<td>Va. Code Ann. § 13.1-228</td>
<td>Family or household member means (i) the person's spouse, whether or not he or she resides in the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time, or (vi) any individual who cohabits or who, within the previous 12 months, cohabits with the person, and any children of either of them then residing in the same home with the person.</td>
<td>Yes</td>
<td>No</td>
<td>N/A</td>
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| Washington | Wash. Rev. Code §26.50.010                                             | Family or household member (includes cohabitation and dating for people over 16):  
- spouses, former spouses,  
- persons who have a child in common regardless of whether they have been married or have lived together at any time,  
- adult persons related by blood or marriage,                                                                                                                     | Yes          | Yes (1992)                                   | Yes                                  |
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<td>West Virginia</td>
<td>W. Va. Code § 48-27-204</td>
<td>Family or household members means persons who: (1) Are or were married to each other; (2) Are or were living together as spouses; (3) Are or were sexual or intimate partners; (4) Are or were dating; Provided, that a casual acquaintance or ordinary fraternization between persons in a business or social context does not establish a dating relationship; (5) Are or were residing together in the same household; (6) Have a child in common regardless of whether they have ever married or lived together; (7) Have the following relationships to another person: (A) Parent; (B) Stepparent; (C) Brother or sister; (D) Half-brother or half-sister; (E) Stepbrother or stepsister; (F) Father-in-law or mother-in-law; (G) Stepfather-in-law or stepmother-in-law.</td>
<td>Yes</td>
<td>Yes (2001)</td>
<td>No</td>
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| Wisconsin  | Wis. Stat. § 813.12           | Domestic abuse means any of the following engaged in by an adult family member or adult household member against another adult family member or adult household member, by an adult caregiver against an adult who is under the caregiver’s care, by an adult against his or her adult former spouse, by an adult against an adult with whom the individual has or had a dating relationship, or by an adult against an adult with whom the person has a child in common. **Dating relationship** means a romantic or intimate social relationship between two adult individuals but "dating relationship" does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.  
- A court shall determine if a dating relationship existed by considering the length of the relationship, the type of the relationship, and the frequency of the interaction between the adult individuals involved in the relationship. | Yes               | Yes (2001)                                      | Yes                                      |
| Wyoming    | Wyo. Stat. Ann. § 55-21-102   | Household Member:  
(A) Persons married to each other;  
(B) Persons living with each other as if married;  
(C) Persons formerly married to each other;  
(D) Persons formerly living with each other as if married;  
(E) Parents and their adult children;                                                                 | Yes               | Yes (2000)                                      | No                                       |
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<td>(F) Other adults sharing common living quarters. (G) Persons who are the parents of a child but who are not living with each other, and (H) Persons who are in, or have been in, a dating relationship.</td>
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