This pamphlet is based on Kansas law and is published to provide general public information, not specific legal advice. The facts involved in a specific case determine the application of the law.

National Domestic Violence Hotline
1-800-799-SAFE (1-800-799-7233)
1-800-787-3224 (TTY)

Kansas Crisis Hotline
1-888-END-ABUSE (1-888-363-2287)

Kansas Bar Association Lawyer Referral Service
1-800-928-3111

Kansas Legal Services
1-800-723-6953 • www.kansaslegalservices.org

Kansas Coalition Against Sexual and Domestic Violence
(785) 232-9784 • coalition@kcsvdv.org

Kansas Victims’ Rights Coordinator
(800) 828-9745 • (785) 291-3690 (Topeka)

The Kansas Coalition Against Sexual and Domestic Violence, in partnership with the Kansas Bar Association provided the content for this publication. The KBA appreciates the time and professional contributions made by KCSDV.

Pamphlets
As a public service of the KBA and the lawyers in your community, a number of pamphlets are available in limited quantities through the KBA office, 1200 SW Harrison St., Topeka, KS 66612-1806; (785) 234-5696.
Domestic violence (battering) is a pattern of abusive and coercive behavior used to gain dominance, power, and control over an intimate partner, former partner, or family member. Domestic violence affects people regardless of race, socio-economic status, age, occupation, education, and gender, although women are at a significantly higher risk of becoming victims than are men. It is important to note that while most batterers are male, not all men are batterers. Domestic violence also affects children and other family or household members, and the communities the victim interacts with from day to day.

Domestic violence has economic, public health, social justice, and legal implications. It affects all parts of a survivor’s life in ways that are not always recognizable. Batterers often use legal and illegal tactics to undermine the victim’s sense of well-being, safety, and autonomy. These tactics of abuse may not be apparent to friends and family, law enforcement, attorneys, medical professionals, employers, and other systems a survivor encounters on a regular basis. It is important for informal and formal support systems to be informed about the far reaching effects of domestic violence.

**Note on Language**

Throughout this brochure, the terms “victim” and “survivor” are used in different contexts. Many, including those in law enforcement, the legislature, and medical and legal professionals, use the term “victim” when referring to someone who has experienced domestic violence. Advocacy systems generally use the term “survivor” as a means of empowering those who have or are experiencing domestic violence by shifting the focus to the individual rather than allowing the experience to define that person.

When discussing domestic violence, the pronouns “he” and “him” are often used to refer to batterers, and “she” and “her” refer to survivors. This is due to the disproportionately high numbers of male batterers and female survivors. Use of these pronouns does not imply that males cannot be survivors.

**TIP:** Rarely will someone who has experienced domestic violence refer to herself as a “victim.” In legal documents, the term “victim” is generally appropriate. When working directly with clients, advocates and support systems, the best practice is to mirror the language your client uses.
Dynamics of Domestic Violence

Batterers are in total control of their actions and make the choice to be violent. The violence is not provoked or caused by the victim, and it is never the victim’s fault. Batterers are often driven by a sense of entitlement and privilege. They believe they have the right to dominate, control, and exert power over their intimate partners or family members. This sense of privilege and entitlement is reinforced by the media and culture.

Domestic violence is rarely caused by a short temper, mental health or illness, the batterer’s upbringing, alcohol or substance abuse, or relationship problems. These can, however, make a domestic violence situation worse. Domestic violence is not a cycle of events, but rather an ongoing situation that victims live with on a daily basis. Physical violence is one of many forms of abuse perpetrators use to control their victims, and is often the result of escalating violence.

Domestic violence takes many forms. Some domestic violence tactics include:

- Physical violence
- Sexual violence
- Economic abuse
- Emotional abuse
- Isolation
- Intimidation
- Using children
- Using immigration status against a victim

Often, several of these tactics are used together to create an unstable environment for victims. Domestic violence can occur without a physical incident. Batterers often use sexual manipulation, degradation, and violence against victims. When working with a victim, assess the entire situation to better understand the specific dynamics of her experience and the current and future risks to her and her children’s safety.

TIP: Screening for domestic violence is one way to assist your clients who may be experiencing domestic violence but have not disclosed that to you. If a client exhibits fear or anxiety regarding her partner, talks of being isolated from family and friends, or has little to no financial independence, you may suspect domestic violence, even if no physical violence is disclosed. The American Bar Association has created a domestic violence screening toolkit for this purpose, available at: http://www.americanbar.org/groups/domestic_violence/publications.html

Claimants must fully cooperate with law enforcement throughout the criminal process in order to receive compensation for expenses.

Expenses covered by the Crime Victims Compensation program include reasonable medical care, mental health counseling, lost wages and support, funeral expenses, some attorney fees, rehabilitation and moving costs in some cases, and clothing and bedding only in sexual assault investigations. The maximum total award a claimant can receive is $25,000, and each category has a maximum limit for coverage.

Although the program contains a consideration for contributory misconduct that allows the board to reduce the award amount, victims of sexual assault and domestic violence cannot be included in that consideration.

TIP: Victim witness coordinators are a direct link to information on the Crime Victims Compensation process. More information is also available through the Attorney General’s office. Become familiar with the victim witness coordinator in your area. They can be an essential link between victims and prosecutors, and can help victims understand that the prosecutor represents the state, not the victim.
Myths about domestic violence are prevalent in the media and social culture. We often think of domestic violence victims as weak or having low self-esteem. Domestic violence is often thought of as a one-time event; something that happens to “those people,” people in an ethnic or racial minority, those who are uneducated, and those living in poverty.

In truth, domestic violence affects people from all social, cultural, economic, and educational backgrounds. Domestic violence victims may not fit the stereotypes set out in the media and society, which leads victims to question whether they are actually experiencing domestic violence. Support systems may not believe that the violence is occurring, or try to minimize the violence because the victim’s situation does not fit their expectations of what domestic violence looks like. Believing a victim’s report of domestic violence is important in assisting them effectively.

People often ask why the victim doesn’t simply leave the abusive relationship. A victim may not leave a violent relationship due to fear for herself and her family members, especially children. The batterer may have made threats to a victim, or her children or other family members. A victim may fear losing custody of the children if she leaves. Victims may not have the resources to leave, may rely on the abuser for economic survival, or the abuser may be a victim’s caregiver. They may be illiterate, or not speak English. They may blame themselves for causing the violence or believe a partner who says he will change if she stays. Victims may also fear blame and shame from others.

Batterers exploit the vulnerabilities of their victims. Everyone has some vulnerability. A victim or her partner may be a public figure with reputations at stake. The batterer may also be in a position of authority, such as an attorney or law enforcement officer. A victim may not believe there is any way to leave a situation in these circumstances. It is important not to blame victims for remaining in abusive situations. Staying may be the safest option.

**TIP:** If a client decides not to leave an abusive relationship, do not assume it is because she is weak or refuses to work with you or take your advice. Do not air your frustrations to your client. Work with your client to determine the safest options and what is best in that specific situation. Remember, your client is the expert on her life and her relationship. Trust her to know what is best for her.

The criminal justice system offers victims the opportunity to participate in the prosecution of batterers through testimony and victim impact statements during sentencing. Victim participation is usually a critical component in effective prosecutions. However, a victim may not wish to participate in the process. Although this may be frustrating to prosecutors, it is important not to force a victim to participate in the process.

**TIP:** Requiring a victim to testify or face the batterer in a criminal court can be traumatic; however, a victim is much more likely to participate if she feels believed and safe. Prosecutors and victim witness coordinators should work together to ensure that the victim’s questions are answered and concerns addressed.

**Victim Witness Coordinators**

District or county attorney offices and municipal prosecutor offices employ a victim witness coordinator, whose job is to answer questions and provide information and guidance to victims in the criminal justice system.

Victim witness coordinators are a liaison between the prosecution and victims, and are responsible for ensuring that victims are notified of scheduled hearings or status conferences. They can also assist with victim impact statements for sentencing hearings and provide information on services available to victims of violent crime, including the Crime Victims Compensation program.

**Crime Victims Compensation**

The Crime Victims Compensation program in Kansas is overseen by the Attorney General’s office, which processes applications for compensation by victims of violent crimes. The program is administered by the Crime Victims Compensation Board, which is made up of three board members and support staff. The Crime Victims Compensation Fund is funded by state and federal government and correction agencies, the Victims of Crime Act, and fines and penalties.

The claimant must have sustained an injury, and must have incurred expenses as a result of the injury that are not covered or reimbursed by any other source, including insurance, workers’ compensation, or restitution ordered by the court. The claimant must report the crime to law enforcement within 72 hours of the incident or show good cause for why the incident was not reported.
Immigration Considerations

Batterers often will use a victim’s legal status in the country against her. A batterer may have legal status and the victim may not, or may be dependent on the batterer’s legal status in order to remain in the country. Batterers may also use a victim’s children to keep her in the relationship. If the children have status and she does not, the batterer may try to get legal custody of the children. The batterer may also threaten to remove the children from the country, or leave the victim and her children without any way to legally remain in the country.

An immigrant victim may not speak English well, or at all, and may be dependent on others to interpret and translate for her. The batterer may not have allowed her to learn English, or kept her isolated from others who speak her language. She may believe that the batterer has control over her legal status. The batterer may also have misled the victim to believe that she does not have legal status when she does. Threatening to report the victim to immigration authorities, as well as failing to file necessary immigration paperwork or withdrawing such paperwork are also tactics of abuse.

TIP: If a client has immigration concerns, you can address these concerns to the best of your ability; however, immigration issues can be complex, and it is best to seek the counsel of an experienced immigration attorney. If a client has limited English proficiency, be sure to provide an impartial interpreter if necessary. It is not best practice to allow a client’s family member to interpret in these circumstances.
Batterer Conduct

Just as domestic violence victims do not fit any one pattern or set of characteristics, neither do batterers. Batterers often present as “normal” in public, and can be charming, charismatic, and likable. High profile individuals, such as political figures, clergy, attorneys, doctors, CEOs, and other executives often have the public’s perception on their side because they are not the stereotypical batterer.

Friends and family of the victim and the batterer may believe that the batterer is not capable of committing acts of domestic violence because he does not fit their expectations of a batterer. It can be detrimental and devastating for a victim to hear “he would never do that” after disclosing domestic violence.

Batterers are not always physically violent. They are likely to manipulate a situation through control of the family finances, undermining or minimizing victims’ parenting, promising to change their behavior, blaming their victims for the violence, turning children and family against victims, and threatening suicide. Batterers often mislead the court and social services systems by attempting to make the victim appear violent, unstable, or mentally ill.

Focusing on the batterer’s conduct, as opposed to the victim’s behavior is important in addressing domestic violence. No behavior of victims causes them to be beaten and abused. Perpetuating violence against an intimate partner or family member is the choice of the batterer. In order to properly address this violence, legal professionals, as well as other professional systems and support systems should concentrate on the batterer’s choices, and on helping the victim heal from the trauma and abuse.

TIP: You are most likely to encounter a batterer during courtroom proceedings. It is important to listen to your client regarding her safety concerns when dealing with the batterer, and to be aware of a batterer’s attempts to manipulate the situation. In divorce and custody cases, mediation is not appropriate when domestic violence is present, nor is anger management, as this actually teaches batterers how to enforce control. You can motion the court not to order mediation or anger management in these cases.

PFA orders can also be granted if the defendant has engaged in sexual conduct with a minor under age 16, if the petitioner filing on the minor’s behalf is a legal guardian or custodian of the minor, or if the defendant is the minor’s parent. A defendant must be served with the petition and summons to appear in court on the day of the hearing. The court can continue hearings if the defendant has not yet been served, or if either party wishes to seek counsel.

PFAAs restrain the defendant from contacting the plaintiff directly or indirectly, or through a third party. The order also restrains the defendant from coming on or around the plaintiff’s residence or workplace. The order can grant plaintiffs occupation of a shared residence if the parties jointly own the residence, and restrain the defendant from canceling any utilities for 60 days. If the parties have children in common, and paternity has been established, the court can also order temporary custody, parenting time and child support through the PFA.

PFS orders grant similar protections to plaintiffs; however, they do not require a preexisting relationship between the parties, and require a course of conduct that harasses the plaintiff. A course of conduct is two or more separate stalking events to indicate a pattern of harassment behavior. There is no time limit on how close or far apart in time the events occur. For example, making more than one phone call in succession, or sending multiple text messages can qualify as separate events.

If the court believes the need exists, it can issue a temporary PFA or PFS order from the date the petition is filed until the date of the hearing, which is generally scheduled one to two weeks after the petition is filed. Temporary orders restrain the defendant from contacting the victim and can be extended by the court if necessary. Final PFA and PFS orders can be good for up to one year from the date of the final order. Plaintiffs may petition the court for a one year extension of the final order, based on the court’s discretion. Plaintiffs in Kansas may, as of July 2012, also file a motion for an extended protection order that lasts a minimum of two years, up to the defendant’s lifetime if the abuser has violated or previously violated a protection order or committed a person felony crime against the victim or a member of the victim’s household, proper service is achieved, and a hearing takes place on the requested extension.

Survivors may also receive temporary restraining orders through a divorce or paternity case. These interlocutory restraining orders are only effective for the
Survivors

Survivor Needs

When working with survivors of domestic violence, it is often easy to focus services on responding only to the abuse that has occurred. Responding to the abuse and the resulting trauma is important. It is equally important to address a survivor as a whole person, with basic needs that must be met in order to personally address the violence.

A good guide for determining how to address the needs of a survivor is to consider every person’s basic needs. These include physical necessities like food, water, and shelter. In domestic violence situations, these basic necessities are often controlled by the batterer, or the batterer controls the finances needed to obtain these items. Survivors often do not have the ability to access these most basic needs on their own. Ensuring that survivors’ basic needs are met first is essential to providing needed services.

People also seek a sense of safety and security in order to feel “normal.” This is especially relevant to survivors of domestic violence, when safety and security are not guaranteed. Creating a safe space in which a survivor can simply exist and feel comfortable is necessary in providing other services over time. Many people feel most comfortable if they have a support system, which can include friends and family. Batterers often isolate survivors from their support system, leading to increased dependency and lack of security. It is also important to ensure that a survivor’s daily concerns regarding children and child care, financial and employment issues, medical needs, and even pet care are addressed.

LEGAL OPTIONS

The legal and criminal justice systems offer several options and remedies to victims of domestic violence. It is necessary for legal professionals who work with victims of domestic violence to understand the dynamics of domestic violence and its effects, as well as the legal remedies and protections available to those who have, or are experiencing domestic violence.

Protection Orders

Criminal courts can issue no contact orders against defendants for the pendency of criminal proceedings for crimes of domestic violence. These no contact orders often vary in scope and duration, and do not generally offer protection for the victim once the proceedings have concluded. They are useful in protecting victims during the course of the case however, and can allow time to obtain a civil restraining order if the victim wishes to do so.

Civil restraining orders include Protection from Abuse (PFA) and Protection from Stalking (PFS) orders. Victims can petition in the district court for a Protection from Abuse order at any time if they are in a relationship, were previously in a relationship, or have child in common with the defendant, or live with or previously lived with the defendant, and the defendant attempted or

TIP: Be patient! If a survivor of domestic violence has come to you for help of any kind, remember that this is a big step for your client. Your client may continue to have a genuine fear of the process, and of what may happen to her if the batterer becomes involved. Keep in mind that your client may not listen to your advice, and may miss appointments. Your client may also be on the move and forget to update you with new contact information. Allow second chances for situations in which you might otherwise fire a client, and try to allow a client to return for help even if she has fired you before.

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Safety Planning

If a survivor makes the decision to leave an abusive relationship, planning that is focused on increasing safety and decreasing risk is an important part of the process. Advocates from local domestic violence programs are able to provide this type of safety planning assistance, however law enforcement, medical, and legal professionals can also assist a survivor in safety planning for that survivor’s specific circumstances.

The most dangerous time for a survivor is often when she chooses to leave the relationship. Making this decision can cause a batterer to lose his sense of power and control and increase the level of violence in the relationship, especially physical violence. Advocates and legal professionals can help a survivor prepare to leave in a way that decreases risk, but everyone involved should be aware of the dangers present.

Preparing to leave may be done in advance, however this is not always possible. Advocates and legal professionals can provide information to survivors about gathering and safely storing important documents and items if it is safe for a survivor to do so. Some of the items that a survivor can gather in advance of leaving an abusive relationship include:

- Picture I.D.
- Family birth certificates/Social Security cards
- Children’s immunization records
- Medications and other health needs
- The deed or lease to your home
- Any joint charge cards
- Checkbook(s), extra checks, and bank statements
- Vehicle registration, title, extra keys
- Insurance policies and premiums
- Tax returns - W2s
- Marriage license
- Recent paycheck stubs, yours and spouse’s
- Documentation of household possessions

Many of these documents are necessary in order to obtain housing, public assistance, and free or inexpensive legal services. However, it is not always possible to gather these documents in advance, or a survivor may not have access to them. Most of these documents can be reissued or reprinted if needed. Legal professionals and advocates can assist survivors in that process.

Safety planning is an ongoing process, and what may be appropriate in one situation may not be appropriate in another. Safety planning is needed if a survivor chooses not to leave the situation. There are many reasons a survivor may choose not to leave, and the reasons are often complex. Finances, children, family, culture, and various other concerns all are considerations when making this decision. It is important not to criticize or judge a survivor who chooses to remain in the relationship, whether temporarily or long-term. Legal professionals and advocates may provide especially important safety planning advice and assistance during these times.

TIP: You can help your client plan for her safety by going over the most legally necessary items, and what priority documents and items she should have. Also note that, if possible, your client should have access to these items or copies of documents even if she is not planning to leave. You can offer to keep copies of documents in your client’s file, however, be cautious of discovery laws, and what may be accessible to the batterer.

Working with Survivors

When working with survivors of domestic violence, legal professionals and those in support roles should be conscious of the trauma experienced by the survivor and how that may affect the survivor’s behavior. Sensitivity to a particular survivor’s experience and reactions is also important because survivor reactions and behaviors are not always the same and cannot be generalized. Traumatic events of all types have significant psychological and biological effects on people who experience them which can lead to seemingly unusual behavior. It is important to be patient with someone who may seem erratic, uncooperative, or adversarial. These characteristics are common in those who have experienced trauma.