



SPECIAL REPORT

Expanding Definitions of Domestic Violence

COALITION TO END DOMESTIC VIOLENCE

In 1780, John Adams of Massachusetts advanced the notion that the fledgling American democracy should be a “government of laws and not of men.” Indeed, rule of law is considered to be a prerequisite to democracy because it promotes fairness and justice.

Rule of law rests on the notion that legal offenses must be defined by concrete actions and verifiable harms, are enforceable by law enforcement personnel, and are amenable to judicial confirmation or refutation. Traditional Anglo-American notions of a crime require both a guilty act (referred to as “actus reus”) and guilty intention (“mens rea”).

The original Family Violence Prevention and Service Act (FVPSA) incorporated this definition of family violence:

The term “family violence” means any act or threatened act of violence, including any forceful detention of an individual, which—

(A) results or threatens to result in physical injury;¹

In contrast, the Violence Against Women Act relies on a broader definition: “The term ‘domestic violence’ *includes* felony or misdemeanor crimes of violence.”²

VAWA’s use of the open-ended word “includes” set the stage for a dramatic broadening of statutory definitions of domestic violence at the state level. From 1997 to 2003, it is estimated that states enacted 1,500 new domestic violence laws, an average of 30 per state over the 7-year period.³

This Special Report traces the broadening definitions of “domestic violence” in federal and state-level laws over the last 25 years, analyzes contemporary efforts to further expand definitions, and examines the harmful effects of such trends.

What Makes a Relationship “Domestic”?

The first question involves the “who” of domestic violence. The original Violence Against Women Act of 1994 was restricted to married and co-habiting couples. The Florida statutory definition still reflects that concept:

“Family or household member” means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as 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.

But the 2000 reauthorization of the Violence Against Women Act broadened the “who” to encompass dating couples. This notion is now reflected in many state laws. In Rhode Island, for example, persons who “are or have been in a substantive *dating or engagement relationship* within the past one year” are considered to be governed by the state’s domestic abuse statute.

More recently, a number of states have broadened the definition of “domestic” beyond relationships that are intimate or even romantic in nature.* Under Colorado law, for example, the civil statute states:

“Domestic abuse” 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. [emphasis added]

In North Dakota, almost any acquaintance can be deemed a potential perpetrator of “domestic” violence:

“Family or household member” means a 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*. [emphasis added]

Some go so far as to consider mistreatment of a family pet as representing “domestic” violence.^{4,5}

What Actions Represent “Violence”?

When persons hear the word “violence,” they typically think of a physical assault that causes an injury, a notion that is consistent with the definition in the original Family Violence Prevention and Services Act. This concept continues to be reflected in the laws of several states. For example, the South Carolina law defines abuse as:

- Physical harm, bodily injury, assault, or the threat of physical harm
- Sexual criminal offenses committed against a family or household member by a family or household member

But activists are seeking to expand the definition of “domestic violence” to include non-violent actions. During the 2000 reauthorization of the Violence Against Women Act, “stalking” was added to the definition.

In 2021, the U.S. House of Representatives passed a bill, H.R. 1620, that redefined “domestic violence” to include “verbal, psychological, economic, or technological abuse.”⁶ Commentator Wendy McElroy warns, “This vague and expansive definition would include lover’s quarrels (verbal abuse), threats of leaving the relationship (psychological), imposing a budget (economic), and sending emails repeatedly after a break-up (technological).”⁷

* An up-to-date compilation of state definitions can be found in the American Bar Association document, Domestic Violence Civil Protection Orders (CPOs) by State. 2009. http://www.abanet.org/domviol/pdfs/dv_cpo_chart.pdf

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Examples of definitional expansions at the state level are discussed below.

Assault

In recent years, the meaning of domestic violence has become diluted by defining assault in terms of its psychological effects. These are two examples:

- Pennsylvania: “Placing another in reasonable *fear* of imminent serious bodily injury”
- California: To “place a person in *reasonable apprehension* of imminent serious bodily injury to that person or to another”

In Hawaii, the statute requires the psychological abuse to be “extreme.” But the law then offers this circular explanation:

“Extreme psychological abuse” means an intentional or knowing course of conduct directed at an individual that seriously alarms or disturbs consistently or continually bothers the individual, and that serves no legitimate purpose; provided that such course of conduct would cause a reasonable person to suffer extreme emotional distress.

In New Jersey, a judge may issue a restraining order “when necessary to protect the life, health, or well-being of a victim.”⁸ Certainly, any lover’s quarrel or marital tiff could be interpreted as affecting a person’s “well-being.” This broad definition underscored the following case:

A New Jersey woman forcefully voiced her disapproval of her estranged husband’s new-found romantic interest, which resulted in the imposition of a restraining order on her. When she later called the new girlfriend a “slut,” that was ruled to be a violation of the restraining order. She was sentenced to 6 months probation and community service.⁹

It should be noted that none of the above-listed psychological terms are diagnoses recognized by the American Psychiatric Association. And judges seldom request any objective proof of “fear” or “imminent serious physical harm.”

Harassment

The legal concept of harassment can be traced back to the 1970s, when persons began to allege harassment as a form of sex discrimination. In 1980, the Equal Employment Opportunity Commission issued guidelines stating that harassment could be defined as the “purpose or *effect* of unreasonably interfering with a person’s work performance or creating an intimidating, hostile, or offensive work environment.”

The key word “effect” endorses the importance of the purported victim’s subjective perception, regardless of the actual actions by the alleged harasser.

So how is harassment defined in the domestic violence context? The Michigan statute states:

“Harassment” means conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact that would cause a *reasonable individual* to suffer emotional distress and that *actually causes the victim to suffer emotional distress*. [emphasis added]

This definition is fraught with elusive terminology. How does a judge know whether a claimant is “actually” suffering? And what does “reasonable” distress mean?

In Oklahoma, merely causing your partner to become seriously annoyed can become the basis for a harassment claim:

“Harassment” means a knowing and willful course or pattern of conduct by a family or household member or an individual who is or has been involved in a dating relationship with the person, directed at a specific person which seriously alarms or *annoys* the person, and which serves no legitimate purpose. [emphasis added]

Stalking

The offense of stalking is of more recent vintage. The first anti-stalking statute was enacted in California in 1990. There is no standard definition for stalking, but, like harassment, fear plays a pivotal role. The U.S. Department of Justice employed the following definition in its Violence Against Women Survey:

“a course of conduct directed at a specific person that involves repeated visual or physical proximity, nonconsensual communication, or verbal, written or *implied* threats, or a combination thereof, that would cause a reasonable person *fear*.”¹⁰ [emphasis added]

How should a court of law assess the claim of an “implied” threat? What is the standard for “reasonable”? Again, the offense is largely defined in the eye of the beholder.

The Missouri statute reveals the broad language that is typically used to define stalking:

“Stalking” is when an adult purposely and repeatedly engages in an unwanted course of conduct that causes alarm to another person when it is reasonable in that person’s situation to have been alarmed by the conduct.

Key words in this definition are “purposely,” “unwanted,” “alarm,” and “reasonable”—terms that defy objective judicial assessment.

In Michigan, stalking includes the infliction of emotion distress, which by law means “significant mental suffering or distress that may, but *does not necessarily, require medical or other professional treatment or counseling.*” This definition is worrisome because it allows a person to claim “distress” that may be so minor that assistance from a mental health professional is unnecessary.

Other Offenses

Statutory definitions of domestic violence have been broadened to incorporate other actions.

For example, some states include “interference with personal liberty” (e.g., Illinois). Delaware includes “interference with custody” in its definition of domestic violence. Likewise, in Michigan, “interfering with petitioner’s efforts to remove petitioner’s children” is a basis for granting a restraining order. In some cases, such language has provided the grounds for arresting parents who sought to enforce their court-ordered child visitation time.

A few states have borrowed terminology from the international war on terrorism. In Minnesota, so-called terroristic actions include brandishing a “replica firearm or a BB gun in a threatening manner.” The Minnesota domestic abuse statute also applies to minors, which means a child playing a harmless game of cops-and-robbers could be charged with committing terroristic threats.

Some statutes feature all-encompassing catch-all language. In Delaware, for example, the definition includes “*any other conduct* which a reasonable person under the circumstances would find threatening or harmful can cause a person to be charged with domestic abuse.”

Summary of State-Level Definitions

A compilation of the civil domestic violence statutes in the 50 states and the District of Columbia can be seen in the Appendix of this report. The Appendix indicates whether each jurisdiction’s definition of domestic violence encompasses any of the following:

1. Emotional impact as a component of assault
2. Harassment
3. Stalking

The Appendix reveals that 32 jurisdictions (63% of the 51) have broadened their definitions of assault to include consideration of psychological distress. These psychological states include “fear” or “being afraid” (27 jurisdictions), “apprehension” (5), “emotional distress” (2), and “extreme psychological abuse” (1).[†]

[†] These numbers add up to more than 32 jurisdictions because some statutory definitions employ two or more psychological descriptors.

Harassment and stalking have also registered substantial statutory inroads:

1. Harassment: 17 jurisdictions (33%)
2. Stalking: 22 jurisdictions (43%)

Overall, 46 jurisdictions in the country have broadened their civil definition to include fear, emotional distress, harassment, stalking, or other psychological states. In five states—Alaska, Michigan, New Hampshire, New Mexico, and North Carolina—statutes have all three types of problematic definitions.

In only five states—Connecticut, Kansas, Idaho, Nebraska, and South Carolina—do statutes define domestic violence simply in terms of overt actions that can be objectively proven or refuted in a court of law.

Offenses Indistinguishable from Everyday Activities of Life

Despite existing concerns about overly-broad definitions of domestic violence, efforts are underway to further expand the construct.

The National Victim Assistance Academy, supported by funds from the Department of Justice, has listed “extreme jealousy and possessiveness” and ignoring, dismissing, or ridiculing the victims’ needs” as examples of domestic violence.¹¹

The U.S. Centers for Disease Control has published a list of actions that it asserts to be examples of intimate partner violence, including “getting annoyed if the victim disagrees,” “withholding information from the victim,” and “disregarding what the victim wants.”¹²

Immigration

In the immigration context, VAWA-funded groups have posited the following as examples of domestic violence:

- Legal Momentum:¹³
 - Possessiveness
 - Minimizing, denying, and blaming
- Catholic Legal Immigration Network:¹⁴
 - Accusations of infidelity
 - “Acts that may not appear violent but are part of an overall pattern of violence.”
- ASISTA:¹⁵
 - A need for apologies

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- “What tone of voice was used”
- Legal Assistance Foundation of Chicago:¹⁶
 - Trying to get legal custody of children
 - Using gestures that create fear
 - Needing to “walk on eggshells”

Coercive Control

For several years, the Office of Violence Against Women presented this definition as a domestic violence “fact:”

What is Domestic Violence? Domestic violence can be defined as a pattern of abusive behavior in any relationship that is used by one partner to *gain or maintain power and control* over another intimate partner.¹⁷ [emphasis added]

Such “offenses” have become indistinguishable from persons’ everyday activities of life.

Over-Criminalization of Partner Discord

Redefining “domestic violence” to include non-violent actions have three major drawbacks:

1. **False Allegations:** Claims of verbal, psychological, or economic abuse are so vague that accused persons have no viable defense against a false allegation. This would exacerbate partner conflict and worsen family instability. Eight percent of Americans now report being falsely accused of abuse.¹⁸
2. **Increase in Demands for Services:** Turning every American into a victim would open the door to expanded requests for financial assistance from victim service agencies. Persons experiencing coercive control could soon quit their jobs, costing states billions in unemployment benefits.¹⁹
3. **Reduced Police Protections for True Victims:** Expansive definitions would cause the number of calls for police assistance to spike. This in turn would dissipate the availability of criminal justice services for the victims of actual violence.

The rule of law is a cornerstone of American democracy. Rule of law helps assure that true victims are protected, offenders are punished, and justice is served.

This Special Report documents how domestic violence laws have defined domestic violence in increasingly broader—and more elusive—terms. In many states, domestic violence is now defined in expansive and essentially limitless terms such as “annoyance,” “fear,” or even “any other conduct.” Some groups are working to expand definitions even

farther to encompass the constructs of “power and control,” an effort that defies comprehension by traditional legal norms.

When almost any action can be construed as “abusive” and an allegation becomes essentially irrefutable, we have reached the point of criminalizing everyday partner interactions. What remains is an over-extended criminal justice system that finds itself incapable of helping the true victims.

State-Level Definitions of Domestic Violence[‡]

| State | Definition of Assault[§] | Harassment? | Stalking? | Citation |
|--------------|--|--------------------|------------------|--|
| Alabama | Definition contains no reference to fear or emotional distress. | Yes | Yes | Title 30. Marital and Domestic Relations. Chapter 5. Protection from Abuse. |
| Alaska | Assault: Hurting or injuring you physically, or making you afraid of imminent physical injury through words or other conduct. | Yes | Yes | Chapter 18.66. Domestic Violence and Sexual Assault |
| Arizona | Definition contains no reference to fear or emotional distress. | Yes | Yes | Title 13 Criminal Code Chapter 36 – Family Offenses |
| Arkansas | (A) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members; | No | No | Title 9 Family Law Subtitle 2 Domestic Relations Chapter 15 Domestic Abuse § 9-15-103. |
| California | (c) To place a person in reasonable apprehension of imminent serious bodily injury to that person or to another. | Yes | No | Family Code Division 10 Prevention of Domestic Violence Part 1. Short Title and Definitions, Sections 6200–6218 |
| Colorado | Definition contains no reference to fear or emotional distress. | No | Yes | Title 13 Courts and Court Procedure, Article 14 Civil Protection Orders |
| Connecticut | Definition contains no reference to fear or emotional distress. | No | No | Title-46b-Family Law Chapter 815a Family Matters |
| Delaware | b. Intentionally or recklessly placing or attempting to place another person in reasonable apprehension of physical injury or sexual offense to such person or another; d. Engaging in a course of alarming or distressing conduct in a manner which is likely to cause fear or emotional distress or to provoke a violent or disorderly response; | No | No | Title 10: Courts and Judicial Procedure Part I: Organization, Powers, Jurisdiction and Operation of Courts Chapter 9. The Family Court of the State of Delaware Subchapter III. Procedure Part D. Protection From Abuse Proceedings. |

[‡] As of 2005. Source: www.womenslaw.org.

[§] Words in bold indicate emotional criteria of domestic violence definitions.

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| District of Columbia | Definition contains no reference to fear or emotional distress. | No | Yes | Division II Judiciary and Judicial Procedure, Title 16. Particular Actions, Proceedings and Matters, Chapter 10. Proceedings Regarding Intrafamily Offenses |
| Florida | Definition contains no reference to fear or emotional distress. | No | Yes | Title XLIII Domestic Relations Chapter 741 Marriage; Domestic Violence |
| Georgia | Definition contains no reference to fear or emotional distress. | No | Yes | Title 15. Courts Chapter 6. Superior Courts Article 2. Clerks of Superior Courts |
| Hawaii | 1) Physical harm, bodily injury, assault, or the threat of imminent physical harm, bodily injury, or assault, extreme psychological abuse or malicious property damage between family or household members; | No | No | Chapter 586 Domestic Abuse Protective Orders Part I. General Provisions |
| Idaho | Definition contains no reference to fear or emotional distress. | No | No | Title 39: Health and Safety Chapter 63: Domestic Violence Crime Prevention |
| Illinois | Definition contains no reference to fear or emotional distress. | Yes | No | 750 ILCS 60/ Illinois Domestic Violence Act of 1986 |
| Indiana | Placing another in fear of serious physical harm. | No | No | IC 34-26-5 Indiana Civil Protection Order Act |
| Iowa | Definition contains no reference to fear or emotional distress. | No | Yes | Title VI. Human Services Chapter 236: Domestic Abuse |
| Kansas | Definition contains no reference to fear or emotional distress. | No | No | Chapter 60. Procedure, Civil Article 31. Protection from Abuse Act |
| Kentucky | (1) "Domestic violence and abuse" means physical injury, serious physical injury, sexual abuse, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault between family members or members of an unmarried couple; | No | No | KRS 403.715 to 403.785 |
| Louisiana | Definition contains no reference to fear or emotional distress. | No | Yes | Title 46 Public Welfare and Assistance Chapter 28. Protection From Family Violence Act Part II. Domestic Abuse Assistance |

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| Maine | E. Communicating to a person a threat to commit, or to cause to be committed, a crime of violence dangerous to human life against the person to whom the communication is made or another, and the natural and probable consequence of the threat, whether or not that consequence in fact occurs, is to place the person to whom the threat is communicated, or the person against whom the threat is made, in reasonable fear that the crime will be committed; | Yes | No | Title 19-A: Domestic Relations Part 4: Protection from Abuse Chapter 101: Protection from Abuse |
| Maryland | (ii) an act that places a person eligible for relief in fear of imminent serious bodily harm; | No | No | Family Law Title 4. Spouses Subtitle 5. Domestic Violence Part I. Definitions § 4-501. Definitions. |
| Massachusetts | (b) placing another in fear of imminent serious physical harm; | No | No | Chapter 209A. Abuse Prevention |
| Michigan | Any other specific act or conduct that imposes upon or interferes with personal liberty or that causes a reasonable apprehension of violence. | Yes | Yes | Chapter 600 Revised Judicature Act of 1961 (Excerpt) Act 236 of 1961 Chapter 29 Provisions Concerning Specific Actions |
| Minnesota | (2) the infliction of fear of imminent physical harm, bodily injury, or assault; | No | No | Chapter 518B Domestic Abuse 518B.01 Domestic Abuse Act. |
| Mississippi | (ii) Placing, by physical menace or threat, another in fear of imminent serious bodily injury; | No | No | Title 93 – Domestic Relations Chapter 21. Protection from Domestic Abuse Article 1. Protection from Domestic Abuse Law |
| Missouri | (a) "Assault", purposely or knowingly placing or attempting to place another in fear of physical harm; | Yes | No | Domestic Relations Chapter 455. Abuse – Adults and Children – Shelters and Protective Orders |
| Montana | (a) the petitioner is in reasonable apprehension of bodily injury by the petitioner's partner or family member as defined in 45-5-206; | No | Yes | Title 40. Family Law Chapter 4. Termination of Marriage, Child Custody, Support |
| Nebraska | Definition contains no reference to fear or emotional distress. | No | No | Section 42: Husband and Wife (a) Protection From Abuse Act |

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| Nevada | Definition contains no reference to fear or emotional distress. | Yes | Yes | Title 3 – Remedies, Special Actions and Proceedings Chapter 33 – Injunctions |
| New Hampshire | Purposely placed in fear of physical harm, through words or actions. | Yes | Yes | Title XII Public Safety and Welfare Chapter 173-B: Protection of Persons From Domestic Violence |
| New Jersey | Definition contains no reference to fear or emotional distress. | Yes | Yes | Title 2C Code of Criminal Justice 2C:25-17 through 35 “Prevention of Domestic Violence Act” |
| New Mexico | (2) severe emotional distress ; (4) a threat causing imminent fear of bodily injury by any household member; | Yes | Yes | Chapter 40. Domestic Affairs Article 13. Family Violence Protection |
| New York | Definition contains no reference to fear or emotional distress. | Yes | Yes | Family Court – Chapter 686 Article 8 – Family Offenses Proceedings |
| North Carolina | (2) Placing the aggrieved party or a member of the aggrieved party's family or household in fear of imminent serious bodily injury or continued harassment, as defined in G.S. 14-277.3, that rises to such a level as to inflict substantial emotional distress; | Yes | Yes | Chapter 50B Domestic Violence |
| North Dakota | 2. 'Domestic violence' includes physical harm, bodily injury, sexual activity compelled by physical force, assault, or the infliction of fear of imminent physical harm, bodily injury, sexual activity compelled by physical force, or assault, not committed in self-defense, on the complaining family or household members. | No | Yes | Title 14: Domestic Relations and Persons Chapter 14-07.1 Domestic Violence |
| Ohio | Threats that put a person in fear of immediate and serious harm. | No | No | Title 29 Crimes – Procedure Chapter 2919 Offenses Against the Family |
| Oklahoma | Definition contains no reference to fear or emotional distress. | Yes | Yes | Title 22. Criminal Procedure Chapter 2 Prevention of Public Offenses |
| Oregon | Intimidates or makes the person afraid of serious physical injury (intentionally, recklessly or knowingly). | No | No | Title 11 Domestic Relations Chapter 107 – Marital Dissolution, Annulment and Separation; Mediation and Conciliation Services: Family Abuse Prevention |
| Pennsylvania | Placing another in reasonable | Yes | No | Title 23. Domestic Relations |

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| | fear of imminent serious bodily injury. | | | Part VII. Abuse of Family Chapter 61. Protection from Abuse |
| Rhode Island | Placing a person in fear of imminent serious physical harm; | No | No | Title 8 Courts and Civil Procedure–Courts Chapter 8-8.1 Domestic Assault |
| South Carolina | Definition contains no reference to fear or emotional distress. | No | No | Title 20 Domestic Relations Chapter 4. Protection from Abuse |
| South Dakota | (1) "Domestic abuse," physical harm, bodily injury, or attempts to cause physical harm or bodily injury, or the infliction of fear of imminent physical harm or bodily injury between family or household members; | No | No | Title 25 Domestic Relations Chapter 10 Protection from Domestic Abuse |
| Tennessee | (3) "Domestic abuse" means inflicting or attempting to inflict physical injury on an adult or minor by other than accidental means, placing an adult or minor in fear of physical harm, physical restraint, or malicious damage to the personal property of the abused party; | No | No | Title 36 Domestic Relations Chapter 3 Marriage Part 6 Domestic Abuse |
| Texas | (1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself; | No | No | Title 4. Protective Orders and Family Violence |
| Utah | (1) "Abuse" means intentionally or knowingly causing or attempting to cause a cohabitant physical harm or intentionally or knowingly placing a cohabitant in reasonable fear of imminent physical harm. | No | No | Title 30 – Husband and Wife Chapter 06 – Cohabitant Abuse Act |
| Vermont | (B) placing another in fear of imminent serious physical harm; | No | No | Title 15: Domestic Relations Chapter 21: Abuse Prevention |

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| Virginia | “Family abuse” means any act involving violence, force, or threat including, but not limited to, any forceful detention, which results in bodily injury or places one in reasonable apprehension of bodily injury and which is committed by a person against such person's family or household member. | No | Yes | Title 16.1 Courts Not of Record |
| Washington | The infliction of fear of imminent physical harm, bodily injury or assault. | No | Yes | Title 26 RCW Domestic Relations Chapter 26.50 RCW Domestic Violence Prevention |
| West Virginia | 1. Makes person afraid of being physically harmed, and that fear is reasonable; 2. Makes person afraid of physical harm by harassment, psychological abuse or threatening acts; | Yes | No | Chapter 48 Domestic Relations Article 27. Prevention and Treatment of Domestic and Family Violence |
| Wisconsin | Definition contains no reference to fear or emotional distress. | No | Yes | Wisconsin Statutes. Chapter 813: Injunctions, NE Exeat and Receivers |
| Wyoming | Making person reasonably afraid of being physically hurt in the near future; | No | No | Title 35 – Public Health and Safety Chapter 21 – Domestic Violence Protection |
| TOTAL | 32 | 17 | 22 | |

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