

Public Hearing Questions for
Domestic Violence State Coordinating Council
Created by Section 38-12-101, *Tennessee Code Annotated*
(Sunset termination June 30, 2014)

1. Provide a brief introduction to the council, including information about its purpose, statutory duties, staff, and administrative attachment.

The Tennessee General Assembly established the Domestic Violence State Coordinating Council (Council) in 1995 through T.C.A. §38-12-101, et al. The purpose of the Council is to increase the awareness and understanding of domestic and family violence and its consequences, and to reduce the incidence of domestic and family violence within the state. The statutory duties of the Council are to develop model policies and training curricula for law enforcement and courts, and to create a process for certifying and monitoring batterers' intervention programs (BIPS).

The Tennessee Coalition to End Domestic and Sexual Violence (Coalition), an independent nonprofit agency, has provided administrative support to the Council since its inception. The Coalition receives a grant in the amount of \$78,500 per year from the Tennessee Department of Finance and Administration's Office of Criminal Justice Programs (OCJP) to support the activities of the Council. Administrative staff employed by the Coalition perform the following duties for the Council:

- **Resource Specialist, Dianne Stewart (10%)**- send out Council meeting notices, make travel arrangements for Council members, coordinate registration for Council trainings
- **Program Manager, Elizabeth Edmondson (10%)**- write annual Council grant application, review Council reports to OCJP, attend Council and Committee meetings, supervise Program Specialist Kyndyll Lackey
- **Program Specialist, Kyndyll Lackey (95%)**- provide technical assistance to BIPS, law enforcement, courts, and victim advocates; receive and check BIPS certification, recertification, and expansion applications for completeness; assist Council members with monitoring BIPS; complete bi-annual Council reports for OCJP; conduct in-person and online trainings for BIPS, law enforcement, courts, and victim advocates; coordinate trainings conducted in collaboration with other partners; provide all administrative support to the Council, including taking minutes at all meetings, coordinating meeting times and spaces, drafting all documents and correspondence, and making document packets for meetings

2. Provide a list of current members of the council. For each member please indicate who appointed the member, how the member's presence on the council complies with Section 38-12-103, *Tennessee Code Annotated*, and the member's county of principal residence. Please indicate each member's race and gender and which members, if any, are 60 years of age or older.

All Council members are in compliance with the required seats outlined in §38-12-103. A list of current Council members and their demographics is attached.

3. What per diem or travel reimbursement do members receive? How much was paid to council members during fiscal year 2012 and to date for 2013?

Per Diem and travel are reimbursed to Council members in accordance with the Tennessee Comprehensive Travel Regulations. Mileage rates were paid at .47 per mile in FY12 and FY13. Lodging was paid at \$107 per night plus applicable city taxes. If Council members stayed overnight, evening meals were reimbursed at a maximum of \$25.50.

In FY12, \$2,066.05 was paid to Council members for travel reimbursements. In FY13, \$2,203.48 was paid to Council members for travel reimbursements.

4. How many times did the council meet in fiscal year 2012 and to date for 2013? How many members were present at each meeting?

The Council held four (4) Council meetings in Fiscal Year 2012. Dates and attendance are as follows:

August 19, 2011	Twelve (12) Members present
December 2, 2011	Sixteen (16) Members present
March 16, 2012	Fifteen (15) Members present
June 29, 2012	Fourteen (14) Members present

Additionally, seventeen (17) Committee meetings were held in Fiscal Year 2012, with a total of one hundred and seven (107) attendees.

The Council held five (5) Council meetings in Fiscal Year 2013. Dates and attendance are as follows:

September 21, 2012	Ten (10) Members present
November 16, 2012	Fourteen (14) Members present
January 18, 2013	Nine (9) Members present
March 8, 2013	Eleven (11) Members present
June 7, 2013	Fourteen (14) Members present

Additionally, fifteen (15) Committee meetings were held in Fiscal Year 2013, with a total of sixty-three (63) attendees.

5. Is the council subject to Sunshine law requirements (Section 8-44-101 et seq., Tennessee Code Annotated) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the council have for informing the public of its meetings and making its minutes available to the public?

Yes, the meetings are posted in a number of ways: on the Coalition's website at www.tncoalition.org, via an annual calendar mailed to the entire Coalition database, and through email announcements. The Council takes minutes and has them available to the public. Additionally, we have a mailing list of non-Council members. Anyone interested in being placed on this list may make a request by phone or in writing. Therefore, we feel that we do comply with the Sunshine law.

6. What were the council's revenues (by source) and expenditures (by object) for fiscal year 2012 and to date for 2013? Does the council carry a fund balance

and, if so, what is the total of that fund balance? If expenditures exceeded revenues, and the council does not carry a fund balance, what was the source of the revenue for the excess expenditures?

The Council receives all of its funding from a grant by the Tennessee Department of Finance and Administration, Office of Criminal Justice Programs (OCJP). The Council did not carry a fund balance in FY12 or FY13. Expenditures did not exceed revenues in FY12 or FY13.

DVSCC FY12

Revenue	<u>78,500</u>
Expense	
Equip.Rental/Maint.	822.19
FICA Expense	3,229.11
Health & Wellness	6,267.01
Pension Expense	1,505.89
Printing/Duplicating Professional Services	800.00 2,846.41
Rent	6,113.70
Salaries	42,210.73
Supplies	1,369.38
SUTA	335.65
Telephone	816.69
Travel	12,183.24
Total Expense	<u>78,500.00</u>

DVSCC FY13

Revenue	<u>78,500</u>
Expense	
Equip.Rental/Maint.	899.47
FICA Expense	3,327.53
Health & Wellness	5,786.05
Pension Expense	493.49
Printing/Duplicating	1,002.75

Professional Services	3,470.00
Rent	6,510.25
Salaries	43,497.15
Supplies	1,192.08
SUTA	245.88
Telephone	1,028.69
Travel	11,046.66
Total Expense	<u>78,500.00</u>

7. Sections 38-12-102(2) and (3), *Tennessee Code Annotated*, require the council to design training courses and curricula for law enforcement personnel and judges and judicial personnel covering their respective roles in dealing with domestic violence. Please describe what training courses and curricula are currently made available and how is it being made available on a statewide basis.

The Council provides various training on domestic violence annually across the state. All training notices are sent out to our statewide database electronically and via mail to be made available statewide. Annual trainings conducted by the Council include:

- The P.O.S.T. approved 40-Hour Law Enforcement Domestic Violence/Sexual Assault Interdiction curriculum is used to train law enforcement officers statewide and is updated annually. A week-long specialized school is conducted annually at the Tennessee Law Enforcement Training Academy using this curriculum. In-service trainings are also made available to departments upon request. More than 10,000 officers have been trained to date using this curriculum.
- The Council, in partnership with the Administrative Office of the Courts and the Coalition, publishes the *Tennessee Domestic Abuse Benchbook* annually for judges and legal personnel. The *Benchbook* is available to download on the Coalition's website at www.tncoalition.org. Members of the Council and Coalition staff also conduct training at judicial conferences as requested across the state.
- The Council provides Batterers' Intervention Program Standards training at least twice per year in different areas of the state. This training provides batterers' intervention programs with the tools to apply for state certification. A curriculum has been created for this training.
- The Council, in partnership with Men Stopping Violence and Emerge, Inc., has provided additional trainings in perpetrator accountability and danger assessment /risk management to judges, legal professionals, batterers' intervention programs, law enforcement, and other professionals.
- Additionally, the Council, in partnership with the Coalition, provides multiple trainings each year on a variety of other relevant topics, including victim advocacy, legal advocacy, sexual assault, and stalking. In Fiscal Year 2012, the Council partnered with the Coalition to conduct thirteen (13) trainings with four

hundred and eighty (480) attendees. In Fiscal Year 2013, the Council partnered with the Coalition to conduct twelve (12) trainings with five hundred fifteen (515) attendees.

8. Has the council set goals and measured its performance compared to the goals? What performance indicators (or goals) does management use to measure the effectiveness and efficiency of the council? How well has the council performed, based on those performance indicators?

Yes, specific goals, activities, and outcome measurements for the Council are outlined in the OCJP grant the Council receives. Outcome measurements include the number of Council and Committee meetings held, the number of trainings conducted, the number of attendees at trainings, the level of satisfaction expressed by attendees on post-training evaluations, the number of technical assistance calls completed, the number of communications disseminated by the Council, and the timeliness of batterers' intervention program certification application processing.

The Council reports to OCJP every six (6) months on progress toward these goals, and has met or exceeded the goals each year. OCJP also conducts annual monitoring of the Council's activities and outcomes; there have been no adverse findings resulting from the monitoring visits. See attached January-July 2013 bi-annual report.

9. Please describe any reports prepared by the council on its operations, activities, and accomplishments and specify to whom the reports are sent. If an annual report is prepared, please provide a copy of the most recent report.

The Council prepares bi-annual reports, which are sent to the Office of Criminal Justice Programs, along with the minutes of each Council and Committee meeting. The documents are also available to the public upon request either by phone or in writing. A copy of the most recent bi-annual report, January-July 2013, is attached.

10. Describe the council's activities in complying with Section 38-12-110, Tennessee Code Annotated, regarding regulations for batterer's intervention programs.

The Council complied with T.C.A. §38-12-220 by creating Chapter 0490-1 *Rules for Batterers' Intervention Programs* in 1999 (Rules filed in September 1999 and approved December 9, 1999). In the process of creating the *Rules for Batterers' Intervention Programs*, public hearings were conducted, which included notices to public and private agencies that provide batterers' intervention programs for perpetrators of domestic abuse, public and private agencies that provide programs for victims of domestic abuse, victim advocates, and survivors of domestic abuse, among others.

Since the public hearings and approval of the *Rules for Batterers' Intervention Programs*, the Council has created a process for certifying and monitoring batterers' intervention programs. Programs are certified for two (2) years, at the end of which they may apply for recertification. Programs are monitored by the Council at least once during each certification period. The Council has also created a process for programs to apply to expand their certification into additional counties expeditiously. There are currently twenty-one (21) Certified Programs serving forty-one (41) counties across the state.

Many local judges are now requiring programs in their communities to become state certified, including judges in Murfreesboro, Nashville, and Knoxville. Currently, seven (7) programs are in the process of applying for certification or recertification. See the attached *Rules for Batterers' Intervention Programs* and map of Tennessee Certified Batterers' Intervention Programs.

11. Describe any council actions to assist law enforcement agencies, the Peace Officers Standards and Training Commission, the Administrative Office of the Courts, and state and local court administrators, court clerks, and judges in meeting the requirements set out in Sections 38-12-106 through 109, *Tennessee Code Annotated*.

The Council has met the requirements set forth in §§38-12-106 through 109 through the following bulleted activities:

§38-12-106 Law enforcement agency policy and education and §38-12-108 Peace officers standards and training commission policy and education.

- The Council frequently provides technical assistance on BIPS and domestic violence dynamics, laws, and response to law enforcement officers and departments via email and telephone contact.
- The Council provides week-long, P.O.S.T.-certified Domestic Violence/Sexual Assault Interdiction training to law enforcement officers and conducts other trainings as requested to statewide law enforcement offices. The Domestic Violence/Sexual Assault Interdiction curriculum is available free of charge to law enforcement personnel by contacting the Coalition.
- The Council provides technical assistance and training related to domestic violence laws and Orders of Protection to law enforcement agencies.
- The Council provides an extensive collection of frequently asked question lists regarding Orders of Protection on the Coalition's website at www.tncoalition.org.
- The Council seeks to provide statewide training that meets the Peace Officers Standards and Training (P.O.S.T.) requirements. This year, the Coalition's Annual Conference, the Tennessee Victim Assistance Academy, and the Domestic Violence/Sexual Assault Interdiction training were all P.O.S.T. approved.
- The Council assists with the creation and distribution of the Coalition's annual domestic violence law book. The law book is available electronically on the Coalition's website at www.tncoalition.org.
- The Council, in partnership with service providers from diverse disciplines and jurisdictions across the state, created the "Tennessee Best Practice Guidelines for Sexual Assault Response Services for Adult Victims" guide, which was distributed to local domestic violence and sexual assault programs statewide, as well as made available on the Coalition's website at www.tncoalition.org.

§38-12-107 Court personnel policy and education and §38-12-109 Administrative Office of the Courts policy and education.

- The Council frequently provides technical assistance on BIPS and domestic violence dynamics, laws, and response to judges and court personnel via email and telephone contact.
- The Council provides training at annual conferences sponsored by the Administrative Office of the Courts (AOC).
- The Council makes recommendations to the AOC for Order of Protection form changes.
- The Council annually updates the *Domestic Abuse Benchbook* and makes the *Benchbook* available electronically through the Coalition's website at www.tncoalition.org. In addition, there is a link to the Coalition's website on the AOC's website.
- The Council provides court-ordered batterers' intervention programs with state rules and facilitates program certification.
- The Council assists with the creation and distribution of the Coalition's annual domestic violence law book. The law book is available electronically on the Coalition's website at www.tncoalition.org.
- The Council seeks to provide statewide training that meets the continuing legal education (CLE) requirements. This year, the Coalition's Annual Conference and the Tennessee Victim Assistance Academy were CLE approved with the assistance of the Tennessee Association of Legal Services.
- The Council has translated Order of Protection forms into Spanish and created a domestic violence manual that was distributed to magistrates across the state.
- The Council worked with the Administrative Office of the Courts to translate the Order of Protection forms into easily understandable language.
- The Council has created a Magistrate Bench Book and a Judicial Bench book, both of which are available on the Coalition's website at www.tncoalition.org.
- The Council has created a Domestic Violence and Firearms Bench Card that has been distributed to judges across the state and is also available on the Coalition's website at www.tncoalition.org (attached).
- The Council has created a Sexual Assault Bench Card that has been distributed to judges across the state and is also available on the Coalition's website at www.tncoalition.org (attached).
- The Council has created an Orders of Protection Bench Card that has been distributed to judges across the state and is also available on the Coalition's website at www.tncoalition.org (attached).
- The Council has created an Orders of Protection Clerk's Card to be distributed to court clerks' offices across the state (attached).

12. How does the council ensure that its members and staff are operating in an impartial manner and that there are no conflicts of interest? If the council operates under a formal conflict of interest policy, please attach a copy of that policy.

The Council and the Coalition have both adopted Conflict of Interest policies. Both policies are attached.

13. Describe any items related to the council that require legislative attention and your proposed legislative changes.

None applicable, the Council has none at this time.

14. Should this council be continued? To what extent and in what ways would the absence of the council affect the public health, safety, or welfare?

Yes, the Council should be continued, because it is the only statewide agency that is collaboratively and systematically addressing domestic violence. The Council is instrumental in providing domestic violence training, addressing emerging issues in regards to domestic violence, developing policy and trainings to address domestic violence, assisting the Administrative Office of the Courts with annual updates to the Order of Protection forms, and certifying batterers' intervention programs across the state. The Council invests significant time and expertise in providing daily technical assistance to batterers' intervention programs, law enforcement, courts, and victim advocates throughout Tennessee via email, telephone, and in-person consultations. Community agencies rely on the Council for leadership, direction, and support in their efforts to provide safety for domestic violence victims.

Furthermore, judges rely on the BIPS certification system to ensure that batterers are being ordered to attend the most effective programs to hold perpetrators accountable and keep victims safe. The termination of the Council would mean the loss of the only entity that can provide technical assistance and state certification for batterers' intervention programs across the state in accordance with the *Rules for Batterers' Intervention Programs*. Just one year ago, the General Assembly reaffirmed the necessity of the Council by passing §39-13-111(d), which requires batterers who are ordered to attend a batterers' intervention program to attend a certified program if it is available, and to complete the entirety of the certified program without exception.

The process for BIPS certification has been continuously improved throughout the years to provide the utmost level of community accountability, collaboration, and integrity for programs providing batterers' intervention services. These collaborations have resulted in increased safety for victims through the combined work of victims' services and batterers' intervention. The Rules provide a higher level of accountability for batterers' intervention programs, including mandatory policies and procedures for ensuring victim safety, which in turn assists with keeping victims of domestic violence safer in communities. The Council strongly believes that without an entity to do this work, batterer accountability and victim safety would decrease in Tennessee.

Finally, the law enforcement training curriculum provides a guideline for officer safety when responding to domestic violence calls in the community and assists with increasing the safety and welfare of domestic violence victims. The absence of the Council would affect the level and amount of domestic violence training provided to law enforcement and to court personnel across the state, including the level of input and recommendations regarding domestic violence-related public policy issues. Without the training and expertise the Council provides, Tennessee would likely see an increase in domestic violence homicides.

15. Please list all council programs or activities that receive federal financial assistance and, therefore are required to comply with Title VI of the Civil Rights Act of 1964. Include the amount of federal funding received by program/activity.

[Federal financial assistance includes:

- (1) Grants and loans of Federal funds,
- (2) The grant or donation of Federal Property and interests in property,
- (3) The detail of Federal personnel,
- (4) The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and
- (5) Any federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

28 C.F.R. Sec. 42.102(c)

[The term recipient means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assign, or transferee thereof, but such term does not include any ultimate beneficiary under any such program.

28 C.F.R. Sec. 42.102(f)

Not applicable. The Council does not receive federal financial assistance (skipped to question 23).

If the council does receive federal assistance, please answer questions 16 through 23. If the council does not receive federal assistance, proceed directly to question 22.

16. Does your council prepare a Title VI plan? If yes, please provide a copy of the most recent plan.
17. Does your council have a Title VI coordinator? If yes, please provide the Title VI coordinator's name and phone number and a brief description of his/her duties. If not, provide the name and phone number of the person responsible for dealing with Title VI issues.

18. To which state or federal agency (if any) does your council report concerning Title VI? Please describe the information your council submits to the state or federal government and/or provide a copy of the most recent report submitted.

19. Describe your council's actions to ensure that council staff and clients/program participants understand the requirements of Title VI.

20. Describe your council's actions to ensure it is meeting Title VI requirements. Specifically, describe any council monitoring or tracking activities related to Title VI, and how frequently these activities occur.

21. Please describe the council's procedures for handling Title VI complaints. Has your council received any Title VI-related complaints during the past two years? If yes, please describe each complaint, how each complaint was investigated, and how each complaint was resolved (or, if not yet resolved, the complaint's current status).

22. Please provide a breakdown of current council staff by title, ethnicity, and gender.

While the Council has no staff, the Coalition staff which performs duties related to the Council activities are:

- Resource Specialist Caucasian Female
- Program Specialist Caucasian Female
- Program Manager Caucasian Female

23. Please list all council contracts, detailing each contractor, the services provided, the amount of the contract, and the ethnicity of the contractor/business owner.

Not applicable.

Domestic Violence State Coordinating Council
Sunset Review 2013-2014
Council Member Demographic Grid

Name	Appointing Party	\$38-12-103 Compliance	Con. District	County of Residence	Race	Gender	Age 60+
Bourque, Stokey	DVSCC	Victim's Witness Coordinator	4	Williamson	Caucasian	Male	No
Broadwell, Jeanne	DVSCC	Representative of Congressional District 5	5	Sumner	Caucasian	Female	No
Burks, Charlotte Senator	Ex- Office	Senate Appointment	6	Putnam	Caucasian	Female	Yes
Dalton, Angelita Judge	DVSCC	At-large Judge	7	Davidson	African American	Female	No
Davis, Sarah	Coalition	Representative of the Coalition	5	Davidson	Caucasian	Female	No
Duncan, Maggi	Ex- Office	President of Chief of Police Designee	5	Davidson	Caucasian	Female	No
Fox, Tina	Ex- Office	Probation and Parole Designee	5	Davidson	Caucasian	Female	No
Gaines-Guzman, Evelyn	Ex- Office	Comm. Labor and Workforce Designee	5	Davidson	African American	Female	No
Johnston-Crowley, Jayne Judge	DVSCC	East Tennessee Judge	3	Meigs	Caucasian	Female	Yes
Jones, Sue	Ex- Office	TN Attorney Generals Conference Designee	5	Davidson	Caucasian	Female	Yes
Lamberth, William Representative	Ex- Office	House of Representatives Appointment	5	Sumner	Caucasian	Male	No
Murry, Margaret Cole	Coalition	Representative of the Coalition	8	Crockett	African American	Female	No
Russell, Lisa	Ex- Office	Probation and Parole Officer	5	Davidson	Caucasian	Female	No
Slack, Angie	DVSCC	Representative of Congressional District 4	4	Maury	Caucasian	Female	No
Soloman, Carol Judge	DVSCC	Middle Tennessee Judge	5	Davidson	Caucasian	Female	Yes
Vacant	DVSCC	West Tennessee Judge					
Vacant	Ex- Office	TN Assoc. of Crim. Defense Lawyers Designee					
Vann, Bobby	Ex- Office	Court Clerk Designee	4	Campbell	Caucasian	Male	No
Waller, Darkenya W.	DVSCC	Legal Services Attorney	5	Davidson	African American	Female	No
Walsh, Kathy	Ex- Office	Executive Director of the Coalition	5	Wilson	Caucasian	Female	No
Wheatcraft, Jane W. Judge	Coalition	Representative of the Coalition	6	Sumner	Caucasian	Female	Yes
Wiethe, John	Ex- Office	Ex. Director of Public Defender's Conf. Designee	5	Davidson	Caucasian	Male	Yes
Willis, Rachel	Ex- Office	Attorney General's Office Designee	5	Rutherford	Caucasian	Female	No
Willis, Mark	Ex- Office	Ex-Director of Peace Officers Standards Designee	6	Davidson	Caucasian	Male	No
Woolfolk, David	Ex- Office	President of Sheriff Association Designee	8	Madison	African American	Male	Yes
Yeomans, Deb	DVSCC	Representative of Congressional District 1	1	Washington	Caucasian	Female	No
Zingale, Mary Rose	Ex- Office	Administrative Office of the Courts Designee	5	Davidson	Caucasian	Female	No

DVSCC Report Form

Coalition Staff Completing Report: Kyndyll Lackey

Date Submitted to OCJP: July 2, 2013

Reporting Period:

July – December x January – June YEAR: 2013

DVSCC Meetings held during the reporting period: *(add rows to table as needed)*

**Include council meeting minutes as a report attachment.*

Meeting Date	Number of Council Members in Attendance	Number of Guests
1/18/13	9	0
3/8/13	11	3
6/7/13	14	3

DVSCC Committee Meetings held during the reporting period: *(add rows to table as needed)*

**Include council meeting minutes as a report attachment.*

Meeting Date	Committee Name	Number of Attendees
1/9/13	Orders of Protection	7
1/29/13	Certification & Monitoring Review	3
2/28/13	Certification & Monitoring Review	3
3/8/13	Emerging Issues & Orders of Protection	6
3/8/13	Certification & Monitoring Review	2
4/4/13	Executive	4
5/20/13	Certification & Monitoring Review	4
6/7/13	Emerging Issues & Orders of Protection	7
6/7/13	Certification & Monitoring Review	4

Publication materials created this reporting period: *(add rows to table as needed)*

Type of publication <i>(form, brochure, manual, cards)</i>	Collaborative partner to create the publication	Intended Audience	Additional Information

Trainings, webinars, and presentations completed this reporting period: 13

Total number of Participants trained this reporting period: 443

Tennessee Coalition to End Domestic & Sexual Violence
Domestic Violence State Coordinating Council Semi-Annual Report

(add rows to table as needed)

Activity type (training, webinar, presentation)	Title of training, include specific topic(s) if presented at larger conference	Date(s) of training	Coalition's Collaborative Partner(s) for this Activity*	Audience Attendees	Total Number of Participants
Training (in-person)	Legal Advocacy for Victims of Domestic and Sexual Violence	2/5/13	Coalition hosted- surveys collected	Advocates and Legal Professionals	39
Webinar	BIPS Standards Train the Trainer	2/13/13	DVSCC hosted, TN Coalition- surveys collected	BIP Program Staff	13
Presentation (in-person)	Belmont University Law School Women's Law Student Association	2/27/13	Coalition hosted- surveys collected	Law Students	11
Presentation (in-person)	Men Stopping Violence for DVSCC	3/8/13	DVSCC hosted, TN Coalition, Men Stopping Violence- surveys collected	DVSCC Members, Advocates	7
Training (in-person)	Metro General Sessions Court Training	3/12/13	Coalition hosted, surveys collected	Court Staff, Corrections, BIP Program Staff	37
Webinar	BIPS and DV Program Collaboration	3/13/13	DVSCC hosted, TN Coalition- surveys collected	BIP Program Staff, DV Shelter Staff	25
Conference (in-person)	Coalition Annual Conference	3/19-21/2013	Coalition hosted, DVSCC- surveys collected	Advocates, DV Shelter, Sexual Assault, BIP Program Staff	126
Training (in-person)	ABC's of Advocacy: Best Practices in Responding to Violence Against Women	4/24-25/2013	Coalition hosted- surveys collected	Advocates, DV Shelter Staff	52
Training (in-person)	Advanced Danger Assessment and Risk Management	5/21/13	DVSCC hosted, TN Coalition, Emerge- surveys collected	BIP Program Staff, Correctional Staff, DV Shelter Staff	25
Webinar	Safety Planning for Victims of Domestic and Sexual Assault	5/22/13	Coalition hosted- surveys collected	Advocates, DV Shelter Staff, BIP Program Staff	22
Training (in-person)	40 Hour Law Enforcement Specialized School on Domestic Violence and Sexual Assault	5/27-31/2013	Coalition hosted- surveys collected	Law Enforcement	48
Training (in-person)	Legal Advocacy for Victims of Domestic and Sexual Violence	5/31/13	Coalition hosted- surveys collected	Advocates and Legal Professionals	21
Training (in-person)	Monitoring of Batterers' Intervention Programs	6/7/13	DVSCC hosted, TN Coalition- surveys collected	DVSCC Members, Law Student, Gov't Employees	17

** If the Coalition was the primary host of the training activity then note if surveys were collected.*

Batterer Intervention Programs activities conducted this reporting period: 7

(add rows to table as needed)

BIP Program Name	Program was Monitored/ Certified/ Recertified	Date of the review/ (re)certification	Additional Information
Hope @ Grace Center	Monitored	1/10/13	Shelby County
Community Probation Services	Certified	3/8/13	Grundy and Warren Counties
Tennessee Correctional Services- Jackson	Expanded	3/8/13	Certification expanded into additional counties: Shelby, Tipton, Lauderdale, and Fayette
Alternative Counseling Center	Certified	6/7/13	Knox County
Family Court Services of East Tennessee	Certified	6/7/13	Bradley, Meigs, McMinn and Monroe Counties
Child and Family Tennessee	Recertified	6/7/13	Knox County
Great Smokies Community Classes	Recertified	6/7/13	Sevier County

Provide any additional information that you would like OCJP to know about the data submitted for this reporting period (ex: detail about collaboration activities, antidotal information about outcomes, BIP activities):

In addition to trainings in which the Council was a collaborator, the Council itself held five trainings during this reporting period; those training sessions had the following outcomes:

- 97% agreed or strongly agreed that the training session had a clearly defined purpose.
- 96% agreed or strongly agreed that they learned a great deal in the training session.
- 91% agreed or strongly agreed that they will apply what they learned back on their job.
- 94% agreed or strongly agreed that they were satisfied with the training they received.

Some of the action steps identified by training participants included:

- I will critique my role as a facilitator to ensure that enough education is being relayed to the batterer. I will also challenge the batters to truly analyze their situation and think of ways the situation could have been avoided and taking accountability for his actions.
- I will be helping to train other facilitator's with this information.
- I will be reviewing my power point and learning how to possibly look at things a little different and be able to assist those in a better fashion.
- I will share this information with my local BIP to help in their certification.

The Council's designee completed the following actions during this reporting period:

- Provided technical assistance to 32 Batterers' Intervention Programs during this reporting period.
- Responded to 233 technical assistance calls from law enforcement, courts, batterers' intervention programs, victim advocates, and others.
- Disseminated 87,777 communications to Council members, law enforcement, courts, batterers intervention programs, victim advocates, and others.

Attachment 1

Domestic Violence State Coordinating Council

Meeting Minutes

**Domestic Violence State Coordinating Council Meeting
January 18, 2013**

Members in Attendance:

Jeanne Broadwell
Janell Clark
Representative Sherry Jones
Angela Slack
Judge Carol Soloman
DarKenya W. Waller
Rachel Willis
Deborah Yeomans
Mary Rose Zingale

Coalition Staff:

Elizabeth Edmondson
Robin Kimbrough
Kyndyll Lackey

Members Not Present:

Stokey Bourque
Senator Charlotte Burks
Margaret Cole
Judge Jane Johnston Crowley
Judge Angelita Blackshear Dalton
Sarah Davis
Maggi Duncan
Tina Fox
Evelyn Gains Guzman
Sue Jones
Lisa Russell
Bobby Vann
Kathy Walsh
Ret. Judge Jane W. Wheatcraft
John Wiethe
Mark Wills
Sheriff David Woolfork

Welcome:

Representative Sherry Jones called the meeting to order at 10:04 a.m. CST. Roll was called.

Announcement:

Kyndyll reminded Council members that Men Stopping Violence would be conducting training immediately following the next Council meeting on March 8, 2013.

Discussion:

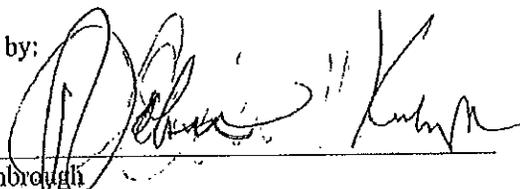
Deborah Yeomans led a discussion about Orders of Protection. The Council decided not to request the issue of an Attorney General Opinion regarding Orders of Protection.

Representative Jones adjourned the meeting at 10:25 a.m. CST.

Materials Distributed:

- *Draft Attorney General Opinion*

Submitted by:



Robin Kimbrough

Date 1-28-13

**Domestic Violence State Coordinating Council Meeting
March 8, 2013**

Members in Attendance:

Jeanne Broadwell
Sarah Davis
Representative Sherry Jones
Judge Carol Soloman
Bobby Vann
DarKenya W. Waller
Kathy Walsh
Ret. Judge Jane W. Wheatcraft
Rachel Willis
Deborah Yeomans
Mary Rose Zingale

Coalition Staff:

Elizabeth Edmondson
Robin Kimbrough
Kyndyll Lackey

Guest:

Susan Cannon
John Manson
Kristi Murray

Members Not Present:

Stokey Bourque
Senator Charlotte Burks
Janell Clark
Margaret Cole
Judge Jane Johnston Crowley
Judge Angelita Blackshear Dalton
Maggi Duncan
Tina Fox
Evelyn Gains Guzman
Sue Jones
Lisa Russell
Angela Slack
John Wiethe
Mark Wills
Sheriff David Woolfork

Welcome:

Representative Sherry Jones called the meeting to order at 10:00 a.m. CST. All members and guests of the Council introduced themselves.

Review of Minutes:

Representative Sherry Jones requested that the Council review the minutes from the November 16, 2012 and January 18, 2013 meetings. Judge Wheatcraft made a motion to approve the 11/16/12 minutes and Deborah Yeomans seconded the motion. All members were in favor and the 11/16/12 minutes were approved. Sarah Davis made a motion to approve the 1/18/13 minutes and Rachel Willis seconded the motion. All members were in favor and the 1/18/13 minutes were approved.

Executive/Nominating Committee Report:

Representative Jones reported that the Executive Committee has not met since the last Council meeting.

Emerging Issues & Order of Protection Committee Report:

Deborah Yeomans presented the Emerging Issues and Order of Protection Committee Report. The Committee met on March 8, 2013, prior to the Council meeting. The final touches are being put on the clerk bench card, then it will be added to the Coalition

website. The Administrative Office of the Court will also add a link to the card to the AOC website and do an email blast to the AOC distribution list to publicize the card. The Council will also email the link to all clerks and legal aid offices statewide.

Robin Kimbrough gave an update on the Coalition's receipt of a LAV grant to operate a Sexual Assault Legal Clinic for 33 counties across the state.

Training Committee:

Jeanne Broadwell presented the Training Committee Report. Since the last meeting the Council has worked with the Coalition to present 3 trainings reaching 63 participants. The trainings conducted were: Legal Advocacy for Victims of Domestic and Sexual Violence; BIPS Standards Train the Trainer Webinar; and Belmont University Law School Women's Law Student Association Presentation. Upcoming trainings include: Men Stopping Violence presentation for DVSCC; BIPS and DV Program Collaboration Webinar; Coalition Annual Conference; ABC's of Advocacy: Best Practices in Responding to Violence Against Women; Advanced Danger Assessment and Risk Management; Safety Planning for Victims of Domestic and Sexual Assault Webinar; 40 Hour Law Enforcement Specialized School on Domestic Violence and Sexual Assault; and Legal Advocacy for Victims of Domestic and Sexual Violence.

Certification and Monitoring Review Committee Report

General Rachel Willis presented the Certification and Monitoring Review Committee Report. There are presently 18 certified Batterers' Intervention Programs in the state. The Council's designee has received six applications for certification and one application for certification expansion this quarter.

- Six programs have submitted applications for certification.

Community Probation Services- McMinnville has submitted all of the necessary materials to demonstrate compliance with the Rules for Certification. Judge Wheatcraft made a motion to certify Community Probation Services, and Mary Rose Zingale seconded the motion. All were in favor and the motion passed.

Tennessee Correctional Services-Cookeville submitted some, but not all, of the necessary materials to demonstrate compliance with the Rules for Certification. This program has yet to provide any revisions to the Council's designee.

Family Court Services of East Tennessee-Athens submitted some, but not all, of the necessary materials to demonstrate compliance with the Rules for Certification. This program intends to submit the remaining items before the June 2013 Council meeting.

Lighthouse Correctional Counseling and Mental Health Services-Murfreesboro submitted some, but not all, of the necessary materials to

demonstrate compliance with the Rules for Certification. The Committee hopes this program will be ready for consideration at the June 2013 Council meeting.

NOVA Counseling, Inc.- Paris submitted some, but not all, of the necessary materials to demonstrate compliance with the Rules for Certification. This was one of the programs whose application had been inactive for some time, but has indicated they wish to continue with the application process.

Main Street Interventions- Dickson submitted some, but not all, of the necessary materials to demonstrate compliance with the Rules for Certification. This was one of the programs whose application had been inactive for some time, but has indicated they wish to continue with the application process.

- The Council's designee received one certification expansion application.

Tennessee Correctional Services-Memphis (an extension of TCS-Jackson) has submitted all of the necessary materials to demonstrate compliance with the Rules for Certification Expansion. Mary Rose Zingale made a motion to certify Tennessee Correctional Services' expansion into Shelby, Tipton, Lauderdale, and Fayette Counties, and Jeanne Broadwell seconded the motion. All were in favor and the motion passed.

- General Willis made a motion that expansion certifications have expiration dates that coincide with the expiration date of their original program's certification, and Judge Wheatcraft seconded the motion. All were in favor and the motion passed.
- All certified programs except for two (Kathy Smith Associates, and S/S Counseling) have been monitored at least once. The remaining two have not received clients yet. General Willis asked for volunteers to help with program monitoring; Kyndyll will forward out the monitoring schedule to Council members and also schedule a training session for volunteers.
- The Council's designee has received requests from the following agencies for approval of training:

Avalon Center

PreventConnect web conference: "Healthy Masculinity as a Strategy to Prevent Sexual and Domestic Violence" held on December 12, 2012. Presenters were Pat McGann, Director of Strategy & Planning at Men Can Stop Rape, and Tonya Turner, Senior Staff Attorney at Break the Cycle. General Willis made a motion to approve the "Healthy Masculinity as a Strategy to Prevent Sexual and Domestic Violence" webconference, and Judge Wheatcraft seconded the motion. All were in favor and the motion was approved.

Kathy Smith Associates

Kathy Smith submitted a request for a waiver of her initial forty hours of training, along with the required supporting documentation. Judge Wheatcraft made a motion to approve the training waiver, and Kathy Walsh seconded the motion. All were in favor and the motion was approved.

- Three uncertified BIPS programs were discovered to be advertising themselves as certified on their websites. These programs are Correctional Management Systems (Nashville), Integrous Counseling (Knoxville), and Clarksville Family Therapy (Clarksville). General Willis will speak with colleagues in the consumer division of the Attorney General's Office to determine next steps to correct this matter.

Other Business

Robin Kimbrough explained the nominations process to fill open seats on the Council. Nominations forms will go out after this meeting and the Council election will take place at the next Council meeting.

Kathy Walsh gave an update on pending legislation, SB 425/HB 489, which would give authority to the Council to set fees for certification and monitoring of batterers' intervention programs.

Representative Jones adjourned the meeting at 11:40 a.m. CST.

Materials Distributed:

- *Meeting Agenda*
- *Domestic Violence State Coordinating Council Meeting Minutes 11.16.12*
- *Domestic Violence State Coordinating Council Meeting Minutes 1.18.13*
- *Order of Protection and Emerging Issues Committee Meeting Minutes 11.16.12*
- *Order of Protection and Emerging Issues Committee Meeting Minutes 1.9.13*
- *Certification and Monitoring Review Committee Meeting Minutes 11.16.12*
- *Certification and Monitoring Review Committee Meeting Minutes 1.29.13*
- *Certification and Monitoring Review Committee Meeting Minutes 2.28.13*
- *Training Committee Report*
- *Certification and Monitoring Review Committee Report*
- *List of Currently Certified Batterers' Intervention Programs*
- *Map of Counties Currently Served by Certified Batterers' Intervention Programs*
- *Council Member Seats Chart*
- *Copy of SB 425/HB 489*
- *Reimbursement Form*

Submitted by:

Kathy Walsh *(initials)*
Kathy Walsh, Council Secretary

5-29-13
Date

**Domestic Violence State Coordinating Council Meeting
June 7, 2013**

Members in Attendance:

Jeanne Broadwell
Judge Jayne Johnston Crowley
Judge Angelita Blackshear Dalton
Sarah Davis
Tina Fox
Representative William Lamberth
Judge Carol Soloman
Bobby Vann
DarKenya W. Waller
Kathy Walsh
Ret. Judge Jane W. Wheatcraft
General Rachel Willis
Deborah Yeomans
Mary Rose Zingale

Coalition Staff:

Elizabeth Edmondson
Robin Kimbrough
Kyndyll Lackey

Guests:

Susan Canon
John Manson
Joe Wharton

Members Not Present:

Stokey Bourque
Senator Charlotte Burks
Margaret Cole
Maggi Duncan
Evelyn Gains Guzman
Sue Jones
Lisa Russell
Angela Slack
John Wiethe
Mark Wills
Sheriff David Woolfork

Welcome:

Acting Chair Judge Angelita Dalton called the meeting to order at 10:07 a.m. CST. All members and guests of the Council introduced themselves.

Review of Minutes:

Judge Dalton requested that the Council review the minutes from the March 8, 2013 meeting. General Rachel Willis made a motion to approve the minutes and Sarah Davis seconded the motion. All members were in favor and the minutes were approved.

Executive/Nominating Committee Report:

Judge Dalton presented the following slate to fill the Council open seats and officers.

Open Seats:

Office	Nominee	Term
Legal Services Attorney	DarKenya W. Waller	7/1/13-6/30/16
Victim Witness Coordinator	Stokey Bourque	7/1/13-6/30/16
Congressional District 5	Jeanne Broadwell	7/1/13-6/30/16

Officers:

Office	Nominee	Term
Chair	Ret. Judge Jane Wheatcraft	7/1/13-6/30/14
Vico Chair	Judge Angelita Blackshear Dalton	7/1/13-6/30/14
Secretary	Kathy Walsh	7/1/13-6/30/14
Treasurer	Sarah Davis	7/1/13-6/30/14
Assistant Secretary	Deborah Yeomans	7/1/13-6/30/14

Deborah Yeomans made a motion to approve the slate and Judge Jayne Johnston Crowley seconded the motion. All members were in favor and the slate was approved.

Emerging Issues & Order of Protection Committee Report:

Deborah Yeomans presented the Emerging Issues and Order of Protection Committee Report. The Committee met on June 7, 2013, prior to the Council meeting. The Committee discussed four issues:

- Inappropriate taxation in Davidson County Sessions Courts via court costs for petitioners in Orders of Protection
- Shelby County Judges' reluctance to address custody and child support issues in Orders of Protection
- Questions of what constitutes "an active court order in place" for the purposes of upgrading an assault charge to aggravated assault
- The clerks' card on Orders of Protection is ready to be electronically distributed via the Administrative Office of the Courts and Legal Aid Society

Kathy Walsh also shared that several attendees at the recent 40 Hour Law Enforcement Academy (from different districts) reported that their Judges would not allow them to make arrests on ex parte Orders of Protection. This issue and those listed above are areas in which the Council could provide further training for Judges and judicial staff.

Training Committee:

Jeanne Broadwell presented the Training Committee Report. Since the last meeting the Council has worked with the Coalition to present 8 trainings reaching 326 participants. The trainings conducted were: Men Stopping Violence presentation for DVSCC; BIPS and DV Program Collaboration Webinar; Coalition Annual Conference; ABC's of Advocacy: Best Practices in Responding to Violence Against Women; Advanced Danger Assessment and Risk Management; Safety Planning for Victims of Domestic and Sexual Assault Webinar; 40 Hour Law Enforcement Specialized School on Domestic Violence and Sexual Assault; and Legal Advocacy for Victims of Domestic and Sexual Violence. Upcoming trainings include: Senator Tommy Burks Victims Assistance Academy; In Her Shoes at Davidson County Probation; ABC's of Advocacy: Best Practices in Responding to Violence Against Women; Batterers' Intervention Programs Standards Workshop;

Title VI Compliance Webinar; Tennessee Law Update Webinar; Legal Advocacy for Victims of Domestic and Sexual Violence.

Certification and Monitoring Review Committee Report

General Rachel Willis presented the Certification and Monitoring Review Committee Report. There are presently 19 certified Batterers' Intervention Programs in the state. The Council's designee has received six applications for certification and two applications for recertification this quarter.

- Six programs have submitted applications for certification.

Alternative Counseling Center- Knoxville submitted all of the necessary materials to demonstrate compliance with the Rules for Certification. Kathy Walsh made a motion to certify Alternative Counseling Center, and Deborah Yeomans seconded the motion. All members were in favor and the motion passed.

Family Court Services of East Tennessee-Athens submitted all of the necessary materials to demonstrate compliance with the Rules for Certification. Deborah Yeomans made a motion to certify Family Court Services of East Tennessee, and Jeanne Broadwell seconded the motion. All members were in favor and the motion passed.

Tennessee Correctional Services-Cookeville submitted some, but not all, of the necessary materials to demonstrate compliance with the Rules for Certification. The Committee hopes this program will complete its application before the September meeting.

Lighthouse Correctional Counseling and Mental Health Services-Murfreesboro submitted some, but not all, of the necessary materials to demonstrate compliance with the Rules for Certification. This program has not provided additional materials in some time; the director has indicated that he is busy with other services.

NOVA Counseling, Inc.- Paris submitted some, but not all, of the necessary materials to demonstrate compliance with the Rules for Certification. This was one of the programs whose application had been inactive for some time, but has indicated they wish to continue with the application process.

Main Street Interventions- Dickson submitted some, but not all, of the necessary materials to demonstrate compliance with the Rules for Certification. This was one of the programs whose application had been inactive for some time, but has indicated they wish to continue with the application process.

- The Council's designee received two recertification applications.

Great Smokies Community Classes- Sevierville submitted all of the necessary materials to demonstrate compliance with the Rules for Recertification. Kathy Walsh made a motion to re-certify Great Smokies Community Classes, and Tina Fox seconded the motion. All members were in favor and the motion passed.

Child and Family Tennessee- Knoxville submitted all of the necessary materials to demonstrate compliance with the Rules for Recertification. Deborah Yeomans made a motion to re-certify Child and Family Tennessee, and Jeanne Broadwell seconded the motion. All members were in favor and the motion passed.

- All certified programs except for the following have been monitored at least once.
 1. Kathy Smith Associates (has not received any referrals into the BIP program)
 2. S/S Wolfe Counseling (has not received any referrals into the BIP program)
 3. Community Probation Services (certified March 2013)
 4. Providence Community Corrections (certified November 2012)
 5. Kelly Miller Smith Center Against Abusive Behavior (certified June 2012)
 6. Tennessee Correctional Counseling Services (certified November 2012).
- The Council's designee has received a request from the following agency for approval of training:

Tennessee Correctional Services-Jackson/Memphis-
Jackson, TN Police Department Comprehensive Violence Against Women Program SANE/SART/DVU Training: "Paraphilic Behaviors; Sexual Assault Typologies; Psychopathology," held on April 15-16, 2013. Presenter was Mary Ellen O'Toole, Ph.D., Retired FBI Special Agent, Behavioral Analysis Unit. Jeanne Broadwell made a motion to approve the "Paraphilic Behaviors; Sexual Assault Typologies; Psychopathology" training, and Deborah Yeomans seconded the motion. All members were in favor and the motion was approved.

- Three uncertified BIPS programs were discovered to be advertising themselves as certified on their websites: Correctional Management Systems (Nashville), Integrous Counseling (Knoxville), and Clarksville Family Therapy (Clarksville). General Willis has spoken with a colleague in the consumer division of the Attorney General's Office to determine next steps to correct this matter, and she recommended to the Council that cease and desist letters be sent to the programs, and a copy be forwarded to their Judges and District Attorneys. Kyndyll will check to be sure the language is still on the websites, then draft a letter for approval and signature by the Chair of the Council and Chair of the BIPS Certification and Monitoring Committee. Kyndyll will also begin sending the list of Certified BIPS to the Administrative Office of the Courts and Probation and Parole Districts via email quarterly.

Other Business

Kathy Walsh described the new Public Chapter 349, which gives authority to the Council to set fees not exceeding \$300 for certification and monitoring of batterers' intervention programs. The Council asked the Certification and Monitoring Committee to study the issue and make a recommendation to the Council at the next meeting regarding the amount of the fee.

Kathy reminded the Council that the DVSCC is up for Sunset in 2014. Sunset review hearings will likely begin this summer. The Coalition will provide information to the Council as it is received.

Judge Dalton presented the proposed meeting dates for 2014. Deborah Yeomans moved to accept the proposed meeting dates, and Tina Fox seconded the motion. All members were in favor and the motion passed.

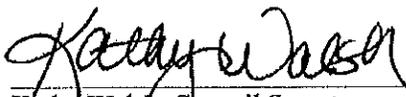
Kathy Walsh, Elizabeth Edmondson, and Kyndyll Lackey presented a brief training on the monitoring of Batterers' Intervention Programs (BIPS). Kyndyll will send out the monitoring plan to the Council, so that members can sign up to do monitoring visits in their local areas.

Judge Dalton adjourned the meeting at 11:33 a.m. CST.

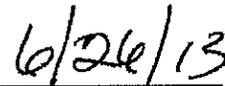
Materials Distributed:

- *Meeting Agenda*
- *Domestic Violence State Coordinating Council Meeting Minutes 3.8.13*
- *Order of Protection and Emerging Issues Committee Meeting Minutes 3.8.13*
- *Certification and Monitoring Review Committee Meeting Minutes 3.8.13*
- *Certification and Monitoring Review Committee Meeting Minutes 5.20.13*
- *Executive Committee Conference Call Meeting Minutes 4.4.13*
- *Nominating Committee Report*
- *Training Committee Report*
- *Certification and Monitoring Review Committee Report*
- *List of Currently Certified Batterers' Intervention Programs*
- *Copy of Public Chapter No. 349*
- *2014 Proposed Meeting Dates*
- *Monitoring of Batterers' Intervention Programs PowerPoint*
- *Observer Evaluation Form*
- *Reimbursement Form*

Submitted by:



Kathy Walsh, Council Secretary



Date

Attachment 2

Domestic Violence State Coordinating Council

Committee Meeting Minutes

Domestic Violence State Coordinating Council
Orders of Protection Committee Meeting
Wednesday, January 9, 2013; 1:00 p.m. CST

Committee Members in Attendance:

Deborah Yeomans
John Manson
Janell Clark
Mary Rose Zingale
Margaret Cole

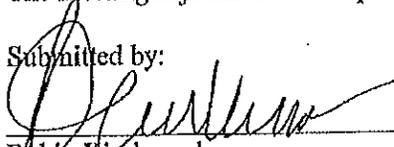
Coalition Staff:

Robin Kimbrough
Kyndyll Lackey

The committee discussed the draft Attorney General Opinion concerning Orders of Protection, and decided to recommend to the Council that the draft opinion not be issued or disseminated.

The meeting adjourned at 1:30 p.m.

Submitted by:



Robin Kimbrough

Date 1/28/13

Domestic Violence State Coordinating Council
Certification and Monitoring Review Committee Meeting
Tuesday, January 29, 2013; 10:30 a.m. CST

Committee Members in Attendance:

Rachel Willis
Stokey Bourque

Coalition Staff:

Kyndyll Lackey

Hope Center @ Grace Monitoring Visit

The committee reviewed the results of Rachel and Kyndyll's 1/10/13 monitoring visit to Hope Center @ Grace's BIP, and approved the outcome letter to be sent.

Knox County Certification

The committee discussed ongoing efforts in Knox County to create an independent BIPS certification process in that county. Committee members asked Kyndyll to work with Jackie Kittrell, who has been assigned by Judge Swann to lead the independent certification committee in Knox County. Jackie has expressed agreement with the state Rules for Batterers' Intervention Programs and her intent to adhere to the Rules. The committee agreed that Kyndyll needs to work with her to encourage programs to get state certified first and foremost. The committee also asked Kyndyll to ask Sheri Eastridge, Program Manager at Child and Family TN in Knoxville, about the referral process in Knox County.

Shelby County Certification

The committee discussed ongoing efforts in Shelby County to create a more stringent BIPS certification process in that county. A committee of the Shelby County Domestic & Sexual Violence Council is working on creating more stringent standards. The committee asked Kyndyll to work with Angela Dagostino, the group leader, on this issue. The committee would like Kyndyll to be included in this group's discussions, so she can prevent conflicts between county and state standards.

Non-certified BIPS Websites Claiming Certification

It has been discovered that three BIPS programs that are not certified are representing themselves as certified on their websites: Correctional Management Systems, Integrous Counseling Center, and Clarksville Family Therapy. The committee decided to bring this to the attention of the Council at the next meeting for further action.

The meeting adjourned at 11:00 a.m.

Submitted by:

Rachel Willis (MKP)
Rachel Willis, Committee Chair

2.5.13
Date

Domestic Violence State Coordinating Council
Certification and Monitoring Review Committee Meeting
Thursday, February 28, 2013; 9:30 a.m. CST

Committee Members in Attendance:

Rachel Willis
Stokey Bourque

Coalition Staff:

Kyndyll Lackey

Applications

Tennessee Correctional Services- Jackson has applied to expand their program into Shelby, Tipton, Lauderdale, and Fayette Counties. They have submitted all required materials to complete the application, and the committee will take it to the Council for approval next week.

Community Probation Services- McMinnville has applied for certification for its BIP, which will serve Warren and Grundy Counties. They have submitted most of the required materials to complete the application. The committee agreed that if they submit the rest of their required materials by the end of the day on Wednesday March 6th, the committee will take the application to the Council for approval next week.

Hope Center @ Grace Monitoring Visit

The committee reviewed the results of Rachel and Kyndyll's 1/10/13 monitoring visit to Hope Center @ Grace's BIP, and the outcome letter which was sent January 30th. The program has until March 2nd to respond to the letter with a corrective action plan; no letter has been received by the Council's designee at this time. Kyndyll will follow up with the program to ensure a response.

Knox County Visit

Kyndyll made a trip to Knoxville on February 22nd to meet with two programs who are struggling to meet certification requirements, Alternative Counseling Centers and Complete Counseling North. Kyndyll met with them individually to provide hands-on assistance with their applications and to answer their questions about certification. Both meetings went well, and Kyndyll believes she was able to connect with both programs and that they should both produce viable applications in the near future.

Kyndyll also met with Sheri Bastridge of Child and Family Tennessee and Amy Dilworth of the Knoxville Family Justice Center to discuss ongoing efforts in Knoxville to standardize and solidify BIPS services and providers. Overall, it appears the programs are becoming more open to working together to meet the community's needs in ways that meet state BIPS standards.

Shelby County Certification

The committee discussed ongoing efforts in Shelby County to create a more stringent BIPS certification process in that county. The Shelby County Domestic & Sexual Violence Council is working on creating more stringent standards. The committee asked Kyndyll to work with

Angela Dagostino, the group leader, on this issue. The committee would like Kyndyll to be included in this group's discussions, so she can prevent conflicts between county and state standards. Kyndyll has reached out to Angie, but has not heard back from her at this time. The committee asked her to follow up with Angie again before the Council meeting.

The meeting adjourned at 10:00 a.m.

Submitted by:

Rachel Willis *SRK*
Rachel Willis, Committee Chair

3.1.13
Date

Domestic Violence State Coordinating Council
Certification and Monitoring Review Committee Meeting
Friday, March 8, 2013; 7:30 a.m. CST

Committee Members in Attendance:

Rachel Willis

Coalition Staff:

Kyndyll Lackey

Committee Members Absent:

Stokey Bourque

Deborah Yeomans

Applications

The Committee will recommend approval of **Tennessee Correctional Services- Jackson's** expansion into Shelby, Tipton, Lauderdale, and Fayette Counties. They have submitted all required materials to complete the application for expansion. The Committee will also recommend the expansion certification to expire with the rest of the program's certification.

The Committee will recommend approval of **Community Probation Services- McMinnville**. They have submitted all required materials to complete the application for certification.

Training Approval Requests

The Committee will recommend approval of training requests received from **Kathy Smith Associates** and **Avalon Center**. The Committee will also work on language regarding the pre-approval of trainings taught by Coalition-endorsed providers to submit to the Council for approval at a later meeting.

Monitoring

Hope Center @ Grace Monitoring Visit

The committee reviewed Hope Center's response to monitoring letter which was sent after Rachel and Kyndyll's 1/10/13 monitoring visit. The Committee agreed that the program's response letter was appropriate. Kyndyll will follow up with the program to confirm receipt and acceptance of the plan.

Additional volunteers are needed for monitoring visits. Rachel will ask for volunteers at the Council meeting, and Kyndyll will plan a training for new volunteers.

Uncertified Program Websites

Rachel will bring the websites of uncertified BIPS who claim to be certified to the attention of the Council.

The meeting adjourned at 8:15 a.m.

Submitted by:

Rachel Willis

Rachel Willis, Committee Chair

4.3.13

Date

**Domestic Violence State Coordinating Council
Order of Protection/Emerging Issues Committee
March 8, 2013**

Present:

DVSCC Members/Guests:

Mary Rose Zingale
Judge Carol Soloman
John Manson
Kathy Walsh
Sarah Davis

Coalition Staff:

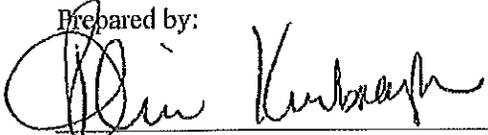
Robin Kimbrough

The Committee met and discussed emerging issues in orders of protection/domestic violence:

The Committee discussed a recent 6th Circuit related addressing Tennessee's definition of domestic assault, and whether it meets the federal weapons prohibition requirements.

The Committee also addressed distribution of the Clerk's Card.

Prepared by:



Robin Kimbrough

3/10/2013
Date

**Domestic Violence State Coordinating Council
Executive Committee Conference Call
April 4, 2013
2:30 pm.**

Present:

Judge Angelita Dalton
Deb Yeomans
Kathy Walsh

Staff:

Robin Kimbrough

The Executive Committee appointed as the Nominating Committee discussed the following updates on nominations:

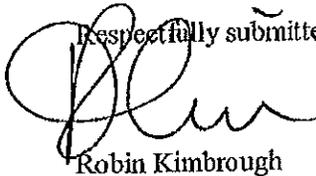
Robin Kimbrough stated that Rachel Willis had nominated the following persons: Darkenya Waller (Legal Services Attorney), Stokey Bourque (Victim's Witness Coordinator), and Jeanne Broadwell (Congressional District 5).

The Committee agreed to reconvene, at a later date, to determine whether there were additional nominees for the open seats, including the West Tennessee Judge vacancy, and to decide on the slate of officers for the upcoming June meeting.

Kathy also informed the Committee that the Speaker of the House, Rep. Beth Harwell, replaced Rep. Sherry Jones with Rep. William Lamberth as a designee from the General Assembly on March 13, 2013. In the interim, Judge Angelita Dalton has assumed the responsibilities of Chair until the June election of officers.

Kathy concluded the meeting with legislative updates.

Respectfully submitted,



Robin Kimbrough

Domestic Violence State Coordinating Council
Certification and Monitoring Review Committee Meeting
Monday, May 20, 2013; 11:00 a.m. CST

Committee Members in Attendance:

Rachel Willis
Stokey Bourque
Ret. Judge Jane Wheatcraft

Coalition Staff:

Kyndyll Lackey

Certification Applications:

Alternative Counseling Center- Knoxville has applied for certification for its BIP, which will serve Knox County. The program has submitted all of the required materials to complete the application, and the committee will take it to the Council for approval on June 7th.

Family Court Services of East Tennessee- Athens has applied for certification for its BIP, which will serve McMinn, Meigs, Monroe, and Bradley Counties. The program has submitted all of the required materials to complete the application, and the committee will take it to the Council for approval on June 7th.

Tennessee Correctional Services- Cookeville has applied for certification for its BIP, which will serve Putnam, Sumner, and Robertson Counties. They have submitted most of the required materials to complete the application. The committee agreed that if they submit the rest of their required materials by the end of the day on Wednesday June 5th, the committee can review the materials for possible presentation to the Council on June 7th. If the program does not turn in all materials by that date, their application will have to wait until the September meeting.

Recertification Applications:

Great Smokies Community Classes- Sevierville has applied to re-certify their program. They have submitted most of the required materials to complete the application. The committee asked Kyndyll to follow up with the program's director for clarification on one of his trainings for annual training credit. The committee agreed that if the program submits this documentation by the end of the day on Wednesday June 5th, the committee will take the application to the Council for approval on June 7th.

Child & Family Tennessee- Knoxville has not yet submitted their application for recertification. Their certification expires on May 23, 2013. Kyndyll has been in touch with the new manager of this program, who is aware of the expiration date, is working on the paperwork, and will mail it in as soon as possible.

Program Visits:

Kyndyll visited Blount County Probation on May 15th. The probation office, in partnership with Haven House (the local domestic violence program), is developing a BIP to serve Blount County. Kyndyll observed and gave feedback on a BIP class, and gave technical assistance on

the development of the program and the certification application process. The program appears to be progressing well, with the help of the local shelter and very committed staff.

Kyndyll visited the newly-certified Kelly Miller Smith BIP program on May 18th. She observed two groups and gave feedback on the facilitation, as well as shared information on upcoming trainings. This program has well-trained facilitators and the groups ran smoothly.

Kyndyll will continue to visit new programs during their first year of certification, in order to build relationships with program staff and provide technical assistance as needed. She has scheduled a visit to Providence Community Corrections on May 28th, and will be scheduling more visits in the coming weeks.

Program Monitoring Plan

Program Manager Elizabeth Edmondson and Kyndyll will present BIP Program Monitoring training during the next meeting of the Council, so that all members will be qualified to go on monitoring visits. A monitoring visit schedule will be created after the training is complete.

Other Business

Rachel asked Kyndyll to follow up with Lisa Helton of the Tennessee Department of Corrections regarding the potential development of a batterers' intervention program within the Department.

The meeting adjourned at 11:49 a.m.

Submitted by:

Rachel Willis MKL
Rachel Willis, Committee Chair

5.22.13
Date

Domestic Violence State Coordinating Council
Certification and Monitoring Review Committee Meeting
Friday, June 7, 2013; 8:30 a.m. CST

Committee Members in Attendance:

Rachel Willis
Ret. Judge Jane Wheatcraft

Coalition Staff:

Kyndyll Lackey
Elizabeth Edmondson

Committee Members not in Attendance:

Stokey Bourque

The Committee agreed to recommend certification of the following programs:

- **Alternative Counseling Center- Knoxville**
- **Family Court Services of East Tennessee- Athens**

The Committee agreed to recommend recertification of the following programs:

- **Child & Family Tennessee- Knoxville**, which submitted their application for recertification since the last Committee meeting.
- **Great Smokies Community Classes- Sevierville**, which submitted the rest of the required recertification materials since the last Committee meeting.

The Committee agreed to recommend approval of **Tennessee Correctional Services Jackson/Memphis's** training by the Jackson Police Department on April 15-16, 2013.

The Committee decided to recommend that the Council send strongly-worded cease letters to the three non-certified BIPS that are holding themselves out to be certified on their websites. The Committee will recommend that the letters be signed by both the Council Chair and the Committee Chair.

The meeting adjourned at 9:06 a.m.

Submitted by:

Rachel Willis 
Rachel Willis, Committee Chair

6.10.13
Date

Emerging Issues/Orders of Protection Committee
June 7, 2013

Members Present

Deb Yeomans
John Manson
Mary Rose Zingale
Judge Angelita Dalton
Judge Jayne Crowley
Judge Carol Soloman

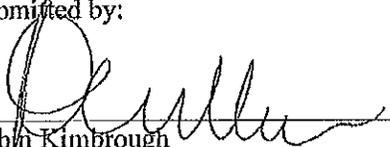
Staff Present:

Robin Kimbrough

The Committee discussed the following:

- Robin raised an issue regarding a TA she received in which a Davidson County General Sessions Judge assessed fees without making specific findings of whether the person was a domestic violence, sexual assault, or stalking victim, and whether the person did not plead the facts underlining the petition in good faith, according to T.C.A. 36-3-617. The Committee discussed how to address these issues through appeals and having direct conversations with the judges about this issue, including other judges who are still charging fees inappropriately.
- The Committee also discussed the update on the Clerk's Card, including how to disseminate it to clerks. After the Clerk's Card is posted to the website, Mary Rose will do a blast email to clerks with the link.
- The Committee also discussed having more clerk involvement on the Committee.
- Judge Jayne Crowley raised an issue regarding NCIC and inputting ex parte orders. The ex parte orders are getting confused with bond conditions.

Submitted by:


Robin Kimbrough

Date: 6/26/13

**RULES
OF
DOMESTIC VIOLENCE STATE COORDINATING COUNCIL**

**CHAPTER 0490-1
RULES FOR BATTERER'S INTERVENTION PROGRAMS**

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0490-1-.01 PURPOSES

- (1) The purposes of these rules for certified batterers intervention programs in Tennessee are as follows:
- (a) To provide minimum standards and certification, and monitoring criteria for batterers intervention programs that elect to identify themselves as “certified batterers intervention programs” for perpetrators of domestic abuse, as defined in Tennessee Code Annotated § 36-3-601.
 - (b) To assist judges in identifying those batterers intervention programs that are designed and operated in a manner that promotes safety of the victim and the victim’s family and associates and accountability of the batterer.
 - 1. These rules for certified batterers intervention programs in Tennessee are for programs to which batterers are court ordered or court referred as a part of the batterer’s sentence or plea agreement.
 - 2. These rules are not intended to apply to programs for batterers that are not based on an intervention model.
 - (c) To provide guidelines for batterers intervention programs that provide intervention services to batterers that help ensure that such programs are designed and operated in a manner that protects victims and holds batterers accountable for abusive and violent behavior.
 - (d) To provide guidelines for batterers intervention programs on working with other private and governmental agencies on coordinated community-wide and state-wide efforts to eliminate domestic abuse.
- (2) If any provision of these rules or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these rules which can be given effect without the invalid provision or application, and to that end the provisions of these rules are declared to be severable.

Authority: T.C.A. §§38-12-110 and 36-3-601. **Administrative History:** Original rule filed September 30, 1999; effective December 9, 1999.

0490-1-02 NATURE OF BATTERERS INTERVENTION PROGRAMS

- (1) These rules apply to Certified Programs that provide intervention services to persons who are court ordered to attend such Certified Programs:
 - (a) as part of their incarceration,
 - (b) as a condition of their probation or parole,
 - (c) as an additional requirement of other non-jail sentencing,
 - (d) as an alternative, in whole or in part, to incarceration, or
 - (e) as a complement to incarceration or to alternative sentencing options under the Tennessee Code Annotated.
- (2) Definitions. For purposes of these rules:
 - (a) The term "batterer" means an individual who commits acts of domestic abuse against a victim. The terms "domestic abuse" and "victim" are defined in Tennessee Code Annotated § 36-3-601 (1998 Supp.).
 - (b) The term "intervention" means the use of a time-limited, structured, educational group activity that requires batterers to face the consequences of their behavior, accept responsibility for their abusive actions, confront their rationalizations and excuses, and learn and practice alternative, non-violent behaviors.
 - (c) The capitalized phrase "Certified Program" means any individual, group, agency, or organization that provides batterers intervention services and is certified under these rules as a "certified batterers intervention program."
 - (d) The capitalized phrase "Victim Advocate" means an employee or volunteer of a victim services agency who works under the supervision of such an agency and has had training and experience working with victims of domestic abuse.

Authority: T.C.A. §§38-12-110 and 36-3-601. *Administrative History:* Original rule filed September 30, 1999; effective December 9, 1999.

0490-1-03 ETHICAL STANDARDS

- (1) The following ethical standards are recommended for all batterers intervention programs; they shall be mandatory standards for Certified Programs.
 - (a) Before a batterers intervention program is established, local services should be available to victims of domestic violence.
 - (b) Before a batterers intervention program can be certified, it must consult with battered women's programs serving the county or judicial district in which the program is located for the purpose of establishing procedures for ensuring victim safety and batterer accountability, as well as establishing a cooperative working relationship to invite monitoring, networking, information sharing, and mutual support between programs.
 - (c) Batterers intervention programs shall have in place the following procedures:

(Rule 0490-1-.03, continued)

1. A procedure that ensures that any contact of victims by the batterers intervention program is done in a safe manner.
 2. A procedure to take reasonable steps to inform a victim about imminent danger to the victim or to anyone associated with the victim.
 3. A procedure for consulting with a local battered women's program or a Victim Advocate if there is a question as to whether to inform a victim about imminent danger to that victim or to anyone associated with that victim.
 4. A procedure for reporting threats or repeat acts of violence to appropriate authorities in the criminal justice system and, when necessary for victim safety, appropriate Victim Advocates.
 5. A procedure for reporting suspected child abuse and suspected elder abuse.
 6. A procedure for reporting any attempted self harm by the batterer.
 7. A procedure for handling batterers who are alcohol or drug impaired when they come to an intervention session.
 8. Written personnel policies that address sexual harassment within the organizational structure of which the batterers intervention program is a part.
 9. A procedure for sharing relevant information with law enforcement and judicial personnel responsible for monitoring batterers or responsible for victim safety, including probation and parole departments, the Department of Children's Services, and other governmental service providers involved with victims or batterers.
- (d) Victim confidentiality. Unless otherwise required by law or court order, the following procedures shall apply to protect victim confidentiality:
1. Batterers intervention program staff shall not reveal information received from a victim or the current partner of a batterer without consent of that victim or current partner.
 2. Even with the consent of the victim or current partner of the batterer, the staff shall not use information that may jeopardize the victim's safety.
 3. Any files or other materials kept by the batterers intervention program that relate to a batterer, but that also relate to, or contain information on, a victim of a batterer shall be kept separate from batterer records, in locked files, in order to ensure the safety and confidentiality of the victim.
- (e) Research by batterers intervention programs should be carried out in a manner that insures victim safety.
- (2) Reporting obligations.
- (a) A batterers intervention program should have access to legal counsel for advice on its obligations and responsibilities concerning disclosure of information obtained during interventions. A batterers intervention program should undertake staff education concerning the following:

(Rule 0490-1-.03, continued)

1. The identification of domestic abuse, child abuse, elder abuse, or other abuse mandated by law to be reported to the proper authorities;
 2. Its obligation to report domestic abuse, child abuse, elder abuse, or other abuse mandated by law to be reported to the proper authorities;
 3. The nature of its legal obligations to ensure victim safety; and
 4. The nature of any confidentiality requirements that may apply to victims or batterers under federal or state law.
 5. The limitations on a batterer's expectation of confidentiality in information made available to the batterers intervention program, including those limitations in Rule 0490-1-.05(1)(b).
- (b) Nothing in these rules shall be construed to limit any statutory obligation to report abuse of any nature.
- (c) Nothing in these rules shall be construed to limit or to expand any confidentiality rights of victims or batterers under applicable federal or state statute or regulation.
- (3) Recommendations regarding sentences. Batterers intervention programs shall not present themselves as being qualified to make sentencing recommendations.

Authority: T.C.A. §38-12-110. *Administrative History:* Original rule filed September 30, 1999; effective December 9, 1999.

0490-1-.04 ACCOUNTABILITY

- (1) Program accountability.
- (a) Certified Programs are responsible for providing the criminal justice system with information related to a batterer's noncompliance with the Certified Program's contract, group rules, and other requirements so that the criminal justice system can impose any appropriate sanctions.
 - (b) Certified Programs shall invite a cooperative working relationship with local battered women's programs and Victim Advocates.
 - (c) Certified Programs shall establish procedures for consultations with the criminal justice system and other appropriate entities, including local battered women's shelters, for information sharing, mutual problem solving, victim safety, informing the criminal justice system, and making programmatic changes.
 - (d) Certified Programs shall establish clear and expeditious lines of communication with the justice system.
 - (e) Certified Programs shall participate in community-based efforts to stop violence against women and other domestic abuse victims and to hold batterers accountable.
 - (f) Certified Programs shall compile adequate documentation that shall ensure continuity of interventions with batterers.

(Rule 0490-1-.04, continued)

1. Such documentation also may be used to establish a database for research purposes, provided that the maintenance of the data and the research based on the data are carried out in a manner that insures victim safety.
- (g) Certified Programs shall include in their programming efforts that are aimed at preventing domestic abuse. Such efforts should include the following:
1. The development of materials and programs aimed at increasing community awareness of domestic violence and of available resources; and
 2. Community efforts to reinforce the community's understanding of the need for and the support of batterer accountability.
- (2) Batterer accountability.
- (a) Certified Programs shall be designed with the goal that batterers who complete the Certified Program shall:
1. Stop abusive behavior.
 2. Hold themselves accountable for abusive behaviors.
 3. Recognize that domestic violence and other forms of coercive behavior are wrong.
 4. Recognize that they are solely responsible for their violence.
 5. Understand that abusive behavior has negative effects and consequences.
 6. Stop denying or minimizing their abusive behaviors.
 7. Stop any victim blaming.
- (b) As critical components of batterer accountability, Certified Programs shall require batterers to do the following:
1. Sign a contractual agreement with the Certified Program.
 2. Pay a fee for intervention services, except as follows:
 - (i) If a batterer is determined by the court to be indigent, the batterer may be required to make some form of restitution to the community in lieu of a fee; and
 - (ii) If the Certified Program is a jail based program, the Certified Program may waive the fee or not assess a fee.

Authority: T.C.A. §38-12-110. *Administrative History:* Original rule filed September 30, 1999; effective December 9, 1999.

0490-1-.05 PROGRAM STRUCTURE

(Rule 0490-1-.05, continued)

- (I) Intake. Intake includes the referral into the Certified Program, a contractual agreement between the Certified Program and the batterer, screening of the batterer by the Certified Program, victim and partner contact by the Certified Program, and any referral of the batterer out of the Certified Program.
- (a) Referrals into the Certified Program.
1. Certified Programs shall complete intake and expeditiously introduce the batterer into intervention classes.
 2. A batterer's failure to complete intake requirements within a reasonable period of time, as determined by the Certified Program, shall be reported within one week to the referral source in the criminal justice system.
- (b) Limited confidentiality. As a condition to participation in the Certified Program and to protect the safety of the batterer's victim and others, batterers shall be required to agree in the contract with the Certified Program that the batterer's expectation of confidentiality in certain information collected by, or that becomes known to the Certified Program, including information that may be subject to public records statutes, will be limited.
1. The batterer shall acknowledge and agree to such limitations and shall give a written waiver of any right to, or expectation of, confidentiality with respect to the following:
 - (i) Threats or acts of violence committed against any person while the batterer is in the Certified Program;
 - (ii) Suspected "domestic abuse" or abuse of any person who is a "victim," as those terms are defined in Tennessee Code Annotated § 36-3-601 (1998 Supp.), while the batterer is in the Certified Program;
 - (iii) The batterer's participation in the Certified Program;
 - (iv) Reports of the batterer's compliance with the Certified Program's rules and with the contract with the Certified Program;
 - (v) The reasons the batterer may have been discharged from the Certified Program;
 - (vi) The batterer's fee balance with the Certified Program;
 - (vii) To the extent allowed by federal or state statute or regulation governing substance abuse programs, information concerning any substance abuse screening or concerning the batterer's participation in any substance abuse components of the Certified Program; and
 - (viii) Audio, video, or written recordings of the intervention sessions in which the batterer is a participant.
 2. The Certified Program shall not release any information that it collects, or that becomes known to the Certified Program, that concerns facts that are required to remain confidential, and when such confidentiality may not be waived under applicable federal or state statute or regulation.
- (c) Contracts. The Certified Program shall advise batterers regarding the following:

(Rule 0490-1-.05, continued)

1. Attendance requirements.
 2. Compliance with the Certified Program's rules.
 3. Non-violence.
 4. Confidentiality limitations.
 5. Active participation in the Certified Program.
 6. Fees to be paid for participating in the Certified Program.
 7. Referrals to additional service providers, when appropriate and authorized by the court.
 8. Agreement of the batterer not to interfere with the batterer's victim's or batterer's current partner's communication with Certified Program staff.
 9. Agreement of the batterer to supply the Certified Program with copies of pertinent criminal justice system documents.
- (d) Screening. Batterers shall be screened at the beginning of their participation in a Certified Program to determine their suitability for intervention and in order to obtain a baseline for intervention. Screening shall include any necessary consultations with mental health professionals and shall also include, but not be limited to, the following items:
1. Inspection of pertinent records.
 2. Arrest history.
 3. History of violence.
 4. Homicide or suicide potential.
 5. Substance abuse history.
 6. Mental health treatment history.
 7. Social history.
- (e) Referrals-out. If the Certified Program determines that the referral of a batterer to the Certified Program was inappropriate, the Certified Program shall request that the court make a new referral to an appropriate program or take such other measures as the court determines to be appropriate.
1. Referrals-out may be made for those batterers for whom the Certified Program does not have appropriate services because of the batterer's gender, sexual orientation, or other characteristics.
 2. Referrals-out may also be made for batterers assessed as having any of the following:
 - (i) High homicide or suicide risk.
 - (ii) Severe mental health problems.

(Rule 0490-1-.05, continued)

- (iii) Sexual offenders.
 - (iv) Child abuse offenders.
 - (v) History of extremely violent criminal offenses (in addition to domestic abuse).
 - (vi) Disruptive or non-cooperative behaviors.
 - (vii) Substance abuse problems requiring treatment prior to domestic violence intervention.
- (f) Victim and partner contact.
1. Certified Programs shall not attempt to act as a service provider to the victims or the current partners of the batterers that they serve.
 - (i) Certified Program personnel should make reasonable efforts to ensure that victims of domestic violence with whom they are in contact are referred to appropriate battered women's programs, Victim Advocates, or programs that are designed to provide victim services.
 - (ii) Organizations that operate Certified Programs may, however, provide victim services as a separate component of their organization.
 2. Contacts with batterer's victim and batterer's current partner shall accomplish the following:
 - (i) Inform them of the limitations of batterers intervention programs in assuring their safety (i.e. the possibility of continued danger).
 - (ii) Inform them of domestic violence resources and services.
 - (iii) Assist with safety planning.
 3. Contact with batterer's victims and batterer's current partners by a Certified Program shall be done in the following manner:
 - (i) Be coordinated with a battered women's program or Victim Advocate in the local community or the judicial district; and
 - (ii) To the extent permitted by law, be confidential.
- (2) Orientation. Orientation shall be used to introduce the batterer to the philosophy and expectations of Certified Programs and as an opportunity to further assess the batterer's suitability for intervention.
- (a) Orientation shall take place within a structured time frame to be determined by individual Certified Programs.
 - (b) Orientation shall introduce the principles upon which the Certified Program is based and shall include, but not be limited to, the following points:
 1. The goal is to end abuse.

(Rule 0490-1-.05, continued)

2. The batterer is solely responsible for the batterer's violence.
 3. Taking responsibility for violence and its negative consequences is a first step toward ending abusive behavior.
 4. The responsibility plan is an initial means to prevent violence.
- (c) Orientation shall review specific group rules regarding the following:
1. Program structure.
 2. Attendance.
 3. Fees.
 4. Assignments.
 5. Food, drink, and smoking policy.
 6. Sobriety.
 7. Weapons.
 8. Continued violence or threats of violence.
 9. Confidentiality limitations.
 10. Discharge criteria.
 11. Re-admissions to the Certified Program.
 12. Reporting obligations of the Certified Program.
- (3) Discharge criteria. Certified Programs shall establish criteria for discharge based upon the Certified Program's contract with the batterer and the Certified Program's rules.
- (a) Successful completion. A batterer successfully completes a Certified Program if the batterer has been in compliance with the Certified Program's contract, group rules, and other requirements. Upon a batterer's successful completion of a Certified Program:
1. The Certified Program shall communicate to the courts, the batterer, batterer's victim, and batterer's current partner that the batterer has complied with the Certified Program's requirements.
 2. Communications shall not imply that the batterer has been rehabilitated or is a "graduate."
 3. Communications shall clearly convey the message that the batterer's successful completion of the Certified Program is only the beginning of the batterer's process of change.
 4. Concerns regarding the behavior of a batterer who has completed a Certified Program shall be documented and forwarded to appropriate law enforcement or court personnel.

(Rule 0490-1-.05, continued)

5. Certified Programs should forward to the referring court any recommendations for continuing treatment, counseling or services for the batterer.
 6. Certified Programs may forward to the victim any recommendations concerning treatment or counseling for the batterer.
- (b) Termination due to failure to successfully complete the Certified Program.
1. Termination from the Certified Program shall result when a batterer has not met the requirements of the Certified Program as specified in the contract or group rules.
 2. The Certified Program shall document the specific reasons for termination without jeopardizing victim safety.
 3. The court, batterer's victim, and batterer's current partner, if known, shall be notified of termination along with any law enforcement or government agencies working with the batterer or victim.
- (4) Structure of batterers intervention classes.
- (a) Intervention shall take place in classes with two instructors, one of whom may be a student intern or a volunteer.
 - (b) Average class attendance shall not exceed sixteen (16) batterers.
 - (c) Twenty-four (24) class sessions shall be the minimum number of classes to meet discharge criteria.
 - (d) Classes shall meet weekly for one and one-half (1-1/2) to two and one-half (2-1/2) hours, except that jail based Certified Programs may schedule batterers for such number of classes per week as they deem appropriate for their programs.
 - (e) Classes may be either open or closed.
 - (f) Closed formats shall not delay class start up for more than three weeks.
 - (g) Classes shall be structured but flexible enough to incorporate spontaneous and dynamic elements.
 - (h) Certified Programs shall not allow victims, or batterers' current partners, to attend the batterers' group.
- (5) Role of instructors. The role of the instructors should include, but not be limited to, the following:
- (a) Keep the group focused on the issues of the batterer's violence, abuse, control, and the batterer's responsibility for change.
 - (b) Challenge any denial or minimization by the batterer of the batterer's abusive behavior and any blaming of the victim or others for the abuse.
 - (c) Facilitate reflective and critical thinking.
 - (d) Maintain an atmosphere that is compassionate and challenging, not colluding.

(Rule 0490-1-.05, continued)

- (e) Provide new information and teach non-controlling relationship skills.
 - (f) Facilitate an open and respectful group process.
 - (g) Challenge thinking and behavior that perpetuates sexism and other forms of discrimination.
 - (h) Recognize the relative progress of individual batterers within the process of change and adapt intervention accordingly.
 - (i) Refrain from engaging in unproductive power struggles with batterers.
 - (j) Provide education and support.
 - (k) Help the batterer accept accountability for the batterer's behavior.
- (6) Documentation.
- (a) Record keeping shall be concise and easy to use.
 - (b) Record keeping shall aid intervention planning.
 - (c) Certified Programs shall keep written group notes.
 - (d) Victim and partner contact notes shall be kept separate from batterer files.
 - (e) Batterer files shall contain the following:
 - 1. Intake records.
 - 2. Attendance records.
 - 3. Documentation of exchanges between Certified Program staff and the criminal justice system.
 - 4. Documentation of relevant exchanges between Certified Program staff and other service providers.
 - 5. Documentation of relevant exchanges between Certified Program staff and batterers.
 - 6. Documentation of batterer's compliance or noncompliance.

Authority: T.C.A. §38-12-110. *Administrative History:* Original rule filed September 30, 1999; effective December 9, 1999.

0490-1-.06 CURRICULUM

- (1) Certified Programs shall have written curricula that shall be included with requests for certification submitted to the Domestic Violence State Coordinating Council under Rule 0490-1-.08.
 - (a) Batterers intervention programs considering the establishment of intervention services for categories of batterers other than heterosexual males shall include in their request for

(Rule 0490-1-.06, continued)

certification submitted to the Domestic Violence State Coordinating Council under Rule 0490-1-.08 material that demonstrates to the Council that they have the trained expertise to understand the dynamics of such categories of batterers or have established an effective procedure for consulting with battered women advocates, gay or lesbian advocates, or other appropriate persons with specific expertise in domestic violence in such populations.

- (2) Each curriculum shall include, but not be limited to, the following materials:
- (a) The statutory definitions of "domestic abuse" and "victim" found in Tennessee Code Annotated § 36-3-601 (1998 Supp.);
 - (b) Specific acts of abuse that batterers may use that are crimes under the Tennessee or Federal criminal codes;
 - (c) Other acts of abuse that may or may not be criminal offenses, including the following:
 - 1. Physical abuse.
 - 2. Sexual abuse.
 - 3. Emotional abuse.
 - 4. Intimidation.
 - 5. Coercion and threats.
 - 6. Isolation.
 - 7. Economic abuse.
 - 8. Abusive behavior based on notions of gender superiority or privileges based on gender.
 - 9. Denial, minimizing, and blaming the victim.
 - 10. Abuse of children.
 - 11. Abuse of animals.
 - 12. Destruction of property.
 - 13. Use of children to control the victim.
 - 14. Any other acts that jeopardize the well being and safety of the batterer's victim, current partner, children, other family members, friends, employees, or others.
 - (d) Materials that guide the batterer in taking responsibility for violent, abusive, and controlling behavior;
 - (e) Materials that teach about the patterns of violence and that help the batterer to identify their own histories and patterns of violence;
 - (f) Materials that teach ways to engage in interpersonal relationships on the basis of equality;

(Rule 0490-1-.06, continued)

- (g) Materials that identify the effects of domestic violence on the batterer, the batterer's victim, the batterer's current partner, the batterer's children, other people, and society generally;
 - (h) Materials that facilitate understanding of adverse legal and social consequences of battering; and
 - (i) Materials that facilitate the development of personal accountability, self-respect, and social responsibility.
- (3) Alternatives to abuse. A Certified Program curriculum shall be designed to accomplish the following goals:
- (a) Educate batterers about cognitive, emotional, and physical cues that precede the batterer's choice to use violence;
 - (b) Educate batterers about patterns of irrational or distorted thinking;
 - (c) Educate batterers about the effects of irrational or distorted thinking on emotions and behavior;
 - (d) Improve the batterers' ability to identify and articulate feelings;
 - (e) Improve the batterers' empathic listening and communication skills;
 - (f) Improve the batterers' cooperative decision making and problem solving skills;
 - (g) Improve the batterers' negotiation and conflict resolution skills;
 - (h) Teach batterers stress management techniques;
 - (i) Teach batterers parenting skills, when applicable;
 - (j) Teach batterers the importance of sharing family responsibilities;
 - (k) Teach batterers the importance of, and the skills required to attend to all legal, social, and financial obligations of the family and community;
 - (l) Teach batterers ways to become responsible citizens and give back to the community; and
 - (m) Teach batterers about power dynamics and the misuse of power, including forms of power based on physical strength, financial control, gender prerogatives and other forms of power dynamics.
- (4) The responsibility plan. A Certified Program curriculum shall require the batterer to complete a written responsibility plan designed to facilitate the safety of the batterer's victim or current partner.
- (a) The responsibility plan shall include, but not be limited to, teaching batterers how to do the following:
 - 1. Relinquish power and control over their victim or their current partner;
 - 2. Strengthen their commitment to being non-abusive; and
 - 3. Become progressively more accountable as the plan is reviewed and revised.

(Rule 0490-1-.06, continued)

- (b) The responsibility plan shall also include strategies for the batterer that are designed to keep the batterer's victim or current partner safe.
- (5) Cultural context of abuse. Certified Program curricula shall include materials that address the cultural aspects of domestic abuse and cultural and broader societal influences that may support abusive behavior, including, at a minimum, materials in the following general areas:
- (a) With respect to Certified Programs that include men who have battered women, in addition to topics addressed in all types of Certified Programs, materials should address the importance of learning respect for women, by presenting and exploring topics that will assist such batterers to understand the need for such respect. Such topics could include the following --
 - 1. Inappropriateness of stereotyping gender role expectations,
 - 2. Connection between much domestic abuse and attitudes and beliefs such as misogyny, sexism, gender bias, belief in male privilege, and beliefs about entitlement and ownership of women, and
 - 3. The use of negative images of women by some batterers to justify and facilitate abuse;
 - (b) With respect to all types of Certified Programs, materials that accomplish the following --
 - 1. Teach respect for all people,
 - 2. Teach equality and self-determination in all types of relationships,
 - 3. Provide tools that facilitate the development of self respect, including,
 - (i) Personal accountability and responsibility, and
 - (ii) Positive self-sufficiency in relationships,
 - 4. Explore societal myths and beliefs that contribute to domestic abuse,
 - 5. Teach how domestic abuse and other forms of abuse may be passed from generation to generation,
 - 6. Teach batterers about the incompatibility of domestic abuse and responsible parenting, and
 - 7. Discuss the relationship of alcohol and drug abuse to domestic abuse.
- (6) Inappropriate approaches. Certified Programs should develop curricula that are effective in stopping batterers from engaging in acts of abuse. It is acknowledged that such curricula will be diverse in nature, and these minimum standards for Certified Programs cannot anticipate which approaches in curricula will work in specific settings. Nonetheless, the following principles shall apply.
- (a) Approaches that compromise the safety and security of victims shall not be used in Certified Programs, including, without limitation, the following:
 - 1. Approaches that require or invite participation by the victim; and

(Rule 0490-1-.06, continued)

2. Teaching materials or teaching techniques that include or promote victim blaming, belief in the appropriateness of dominance over others, or that in any way deny the batterer's personal responsibility for abusive behavior.
- (b) Approaches that have a high risk of compromising victim safety because of the batterer's skill at coercing the victim to participate or manipulating the victim while participating, shall not be used in Certified Programs, including, without limitation, the following:
1. Couples therapy; and
 2. Family therapy.
- (c) Because substance abuse treatment and batterers intervention are based on different assumptions about the cause of their respective problems and require inconsonant treatment programs, batterers who are also substance abusers shall be referred to substance abuse treatment either prior to or concurrent with participation in a Certified Program. Substance abuse treatment and batterers intervention may be offered by the same organization provided the following conditions are met:
1. The batterers intervention component and the substance abuse component must be clearly separate;
 2. Substance abuse counseling may not be used in lieu of batterers intervention;
 3. The batterers intervention component may not use a substance abuse model such as approaches that view battering as a disease or physiological condition; and
 4. The batterers intervention component must last a minimum of one and a half hours per class.
- (d) Certified Programs may include anger management components but shall not be based solely on anger management models.

Authority: T.C.A. §38-12-110. *Administrative History:* Original rule filed September 30, 1999; effective December 9, 1999.

0490-1-.07 PERSONNEL AND TRAINING STANDARDS

- (1) Requirements for all personnel. All Certified Program personnel shall comply with the following:
 - (a) Must not engage in domestic abuse in their own lives.
 - (b) Former batterers must not have committed acts of domestic abuse for a minimum of two years prior to employment and must have completed successfully a batterers intervention program.
 - (c) Must not abuse alcohol or drugs.
- (2) Characteristics of direct service providers. Personnel of Certified Programs who provide direct services to batterers should exhibit the following characteristics:
 - (a) Demonstrate awareness of power and control issues;

(Rule 0490-1-.07, continued)

- (b) Communicate and act in ways that provide batterers with a positive role model for behavior that is consistent with gender equality and mutual respect between men and women;
 - (c) Demonstrate an interest in working toward the elimination of domestic abuse and other forms of abuse both as a worker in the Certified Program and as a member of the wider community;
 - (d) Demonstrate sensitivity to the racial, ethnic and linguistic diversity within the community served;
- (3) Diversity. Certified Programs should attempt to attract and retain personnel who reflect the racial, ethnic, and linguistic diversity within the community served.
- (4) Credentials and Qualifications.
 - (a) Instructors and supervisors shall, at a minimum, have a baccalaureate degree, except as provided in item (b) below.
 - (b) Instructors who do not have a college degree may serve as instructors provided that:
 - 1. They are paired in a batterers intervention class with an instructor who does have the required college degree; and
 - 2. They have at least two (2) years experience,
 - (i) working with batterers or domestic abuse victims, or
 - (ii) working within the criminal justice system with other types of violent perpetrators.
- (5) Program Supervisors.
 - (a) Each Certified Program shall have at least one person in a supervisory position with at least two years of experience working with batterers or victims of domestic violence.
 - (b) Each Certified Program shall have at least one person in a supervisory position with training in group facilitation.
- (6) Supervision Structure.
 - (a) Supervision shall ensure instructors' ability to conduct safe and effective interventions with batterers.
 - (b) Certified Programs shall maintain clear records of dates, times, and content of supervisory contacts.
 - (c) Internal Program Supervision. Each Certified Program shall designate one person who shall have supervisory responsibility for the following:
 - 1. Supervision of Certified Program instructors and other staff;
 - 2. Instructor training;
 - 3. Compliance by the Certified Program with these rules; and

(Rule 0490-1-.07, continued)

4. Compliance by the Certified Program with applicable laws.
- (7) Consultation with Victim Advocates.
- (a) Certified Programs shall require that instructors consult with Victim Advocates associated with local battered women's programs or, if there are no such programs in the local area, then Victim Advocates associated with nearby or statewide battered women programs. This consultation shall, at a minimum, include discussion of the following:
 1. Problem solving techniques;
 2. Information sharing;
 3. Victim safety issues;
 4. Program suggestions; and
 5. Collaboration on efforts to eliminate domestic abuse.
 - (b) The Certified Program supervisor and Victim Advocate shall maintain contact on a periodic schedule or as needed.
- (8) Training.
- (a) All Certified Program instructors and supervisors shall receive annual training in domestic abuse and batterers intervention. Such training shall include:
 1. Training in these rules;
 2. Group process and intervention techniques;
 3. Safety training directed to ensuring victim safety, the safety of the Certified Program, and the safety of the participating batterers; and
 4. Current knowledge about the dynamics of domestic abuse.
 - (b) Number of hours of training.
 1. All instructors and supervisors shall receive a minimum of forty (40) hours of training within the first twelve (12) months after a Certified Program has received its initial certification, except that if an instructor or supervisor has worked in a batterers intervention program for two years, or has received other domestic violence training, such instructor or supervisor may request a waiver, in whole or in part, of this requirement from the Domestic Violence State Coordinating Council.
 2. Newly employed instructors and supervisors shall receive a minimum of forty (40) hours of training within the first twelve (12) months of their employment.
 3. After instructors and supervisors have received their initial forty (40) hours of training, they shall receive a minimum of eight (8) hours of training annually.
 - (c) Providers of training. Training sessions may be conducted by any of the following:

(Rule 0490-1-.07, continued)

1. The Certified Program that employs the instructors and supervisors, other Certified Programs, or battered women shelters, provided training offered by such organizations is approved by the Domestic Violence State Coordinating Council, if such training meets the standards set forth in Rule 0490-1-.07(8)(a);
 2. The Tennessee Task Force on Domestic Violence or other organization or individual or group designated by the Domestic Violence State Coordinating Council to provide training for batterers intervention programs; or
 3. Other providers approved by the Domestic Violence State Coordinating Council, if such training meets the standards set forth in Rule 0490-1-.07(8)(a).
- (d) The forty (40) hour requirement during the first year of a Certified Program's certification and during the first year of employment of instructors and supervisors, shall include attendance at the batterers intervention training conducted by the Tennessee Task Force Against Domestic Violence, or such other similar training for batterers intervention programs designated by the Domestic Violence State Coordinating Council.
- (9) Mental health personnel. Certified Programs in Tennessee are not required to employ mental health professionals. Certified Programs, however, may employ, retain, or consult with mental health professionals as needed.

Authority: T.C.A. §38-12-110. *Administrative History:* Original rule filed September 30, 1999; effective December 9, 1999.

0490-1-.08 CERTIFICATION AND MONITORING OF BATTERERS INTERVENTION PROGRAMS

- (1) The Domestic Violence State Coordinating Council may appoint one or more monitoring committees to assist the Council in the monitoring and certification of batterers intervention programs.
 - (a) Each such monitoring committee shall serve at the pleasure of the Domestic Violence State Coordinating Council and shall operate and perform its functions in accordance with the instructions of the Council.
 - (b) The Domestic Violence State Coordinating Council may refer all, or any part of, its certification and monitoring functions to a monitoring committee, except as follows:
 1. All decisions concerning certification of batterers intervention programs shall be made by the Domestic Violence State Coordinating Council; and
 2. Any and all policy related decisions, including any decision to share information obtained in the certification or monitoring of batterers intervention programs with the courts or to release such information to any other person or entity, or to the public generally, shall be made by the Council, or its staff.
- (2) Procedures for certification of batterers intervention programs.
 - (a) Any individual or organization wishing to apply for certification under these rules shall submit a written request for certification and include with its request letter the following information:
 1. Its program philosophy;

(Rule 0490-1-.08, continued)

2. Its organizational structure;
 3. Policies and procedures that it has in place;
 4. The curriculum it will use, including any handouts;
 5. Copies of all relevant forms it will use, including,
 - (i) Intake form,
 - (ii) Screening forms,
 - (iii) Fee schedule,
 - (iv) Form of contract,
 - (v) Attendance forms,
 - (vi) Form of contact notes,
 - (vii) Form of group notes,
 - (viii) Termination notice,
 - (ix) Compliance notice, and
 - (x) Other forms needed for program functions;
 6. A schedule of group meeting times and locations; and
 7. Documentation on all program staff and instructors, including the following,
 - (i) Credentials,
 - (ii) Documentation of training,
 - (iii) Documentation of relevant expertise, and
 - (iv) Signed statements certifying that they have not committed acts of domestic abuse for two (2) years.
- (c) Certification review.
1. The Domestic Violence State Coordinating Council shall review the request for certification, along with attachments and may make such investigations or inquiries as it deems appropriate.
 2. The Domestic Violence State Coordinating Council may conduct an on-site review of the applicant.
- (d) Approval or denial of certification.

(Rule 0490-1-.08, continued)

1. The Domestic Violence State Coordinating Council shall make the decision to certify or to deny certification to a batterers intervention program, and shall provide the batterers intervention program with a letter stating its decision.
 2. If the program has been denied certification, the letter shall state the specific reasons for denial, the steps necessary to gain certification, and appeal procedures available to the program.
 3. The program may reapply as soon as the reasons for denial stated in the letter have been corrected or otherwise addressed to the satisfaction of the Domestic Violence State Coordinating Council.
- (c) Term of certification and re-certification.
1. Certification of a batterers intervention program shall be for a period of two (2) years.
 2. Within sixty (60) days of the expiration of the two year period a Certified Program desiring to be re-certified under these rules, shall submit a written request, labeled "request for re-certification," to the Domestic Violence State Coordinating Council in substantially the same form as required of an original certification under Rule 0490-1-.08(2). The request for re-certification shall be reviewed by the Domestic Violence State Coordinating Council in accordance with the procedures for original requests for certification.
- (3) Reconsideration and appeals.
- (a) Request for reconsideration.
1. A batterers intervention program that is denied certification, or re-certification, may file a written request for reconsideration with the Domestic Violence State Coordinating Council. The request for reconsideration shall state the specific reasons why the Domestic Violence State Coordinating Council should reconsider its decision, including any materials that may help the Council in its reconsideration.
 2. The Domestic Violence State Coordinating Council, or a subcommittee of the Council, will review the request for reconsideration and may also review any materials submitted with the request and make such additional inquiries or investigations as it deems appropriate.
 3. The Domestic Violence State Coordinating Council shall mail its decision to the applicant within forty-five (45) calendar days of the Council's receipt of the request for reconsideration. If the Domestic Violence State Coordinating Council's decision is negative, the Council shall provide the applicant with information on its appeal rights.
- (b) Administrative Appeal. A batterers intervention program denied certification, and then denied reconsideration, if requested, may appeal the decision by following the Rules of Procedure for Hearing Contested Cases Before State Administrative Agencies, Tennessee Department of State, Rule Chapter 1360-4-1.
- (4) Monitoring.
- (a) The Domestic Violence State Coordinating Council shall monitor Certified Programs during the period that they are certified.

(Rule 0490-1-.08, continued)

- (b) In carrying out its monitoring duties, the Domestic Violence State Coordinating Council may conduct scheduled, or unannounced on-site visits to Certified Programs and may make such investigations or inquiries as it deems appropriate.
- (c) In monitoring Certified Programs the Domestic Violence State Coordinating Council shall consider, among other matters, the following:
 - 1. The effectiveness of the Certified Program with respect to victim safety and batterer recidivism;
 - 2. The Certified Program's compliance with these rules;
 - 3. The Certified Program's training of instructors and supervisors; and
 - 4. The participation of the Certified Program in community wide efforts to eliminate domestic abuse.
- (d) The information obtained by the Domestic Violence State Coordinating Council in the monitoring of a Certified Program may be shared with the local courts and the Administrative Office of the Courts. Such information may also be included as a factor in the Council's consideration of a Certified Program's request for re-certification.

Authority: T.C.A. §§38-12-110 and 4-5-219. *Administrative History:* Original rule filed September 30, 1999; effective December 9, 1999.

0490-1-.09 RULES OF PROCEDURE

For Rules of Procedure see Rules for Procedure for hearing contested cases before State Administrative Agencies, Tennessee Department of State Rule 1360-4-1.

Authority: T.C.A. §§38-12-105, 38-12-110, and 4-5-219. *Administrative History:* Original rule filed September 30, 1999; effective December 9, 1999.



DOMESTIC VIOLENCE AND FIREARMS BENCHCARD

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I. TENNESSEE FIREARMS PROHIBITIONS

The following persons are guilty of a violation of T.C.A. § 39-17-1307 if found in possession of a firearm:

- A person convicted of a felony;
- A person convicted of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921;
- A person convicted of stalking;
- A person under a qualifying order of protection as defined in 18 U.S.C. § 922(g)(8); or
- A person who is prohibited from possessing a firearm under any other provision of state or federal law.

II. ORDERS OF PROTECTION

A defendant/respondent who is under a qualifying order of protection may not possess a firearm according to federal and Tennessee law. 18 U.S.C. § 922(g)(8); T.C.A. § 36-3-606(g).

Qualifying order of protection as defined in 18 U.S.C. § 922(g)(8):

- Petitioner is an **intimate partner** of the Respondent.
An intimate partner is a person who falls within the following relationships:
 - a spouse of the respondent;
 - a former spouse of the respondent;
 - an individual who is a parent of a child of respondent;
 - or an individual who lives or has lived with the respondent.
- Respondent received actual notice and had an opportunity to be heard.
This means that the respondent received proper service under T.C.A. § 36-3-605(c). For this reason, an ex parte order would not qualify. But an order of protection granted as a result of a settlement would qualify. The respondent only has to have had an opportunity to be heard. An actual hearing does not have to take place for the order of protection to qualify.
- The order restrains the respondent from harassing, stalking, or threatening the intimate partner, child of the respondent, or child of the respondent's intimate partner, OR the order restrains respondent from engaging in other conduct that would place the intimate partner in reasonable fear of bodily injury to the partner or child.
- The order contains a finding of a credible threat to the physical safety of an intimate partner or child OR the order, by its terms, explicitly prohibits the use, attempted use, or threatened use of physical force against the intimate partner or child that would reasonably be expected to cause bodily injury.

 Judges should follow the relationship requirements listed in T.C.A. § 36-3-601(5) when deciding whether or not to issue an order of protection. Not all orders of protection issued under Tennessee law will fall under the firearms prohibition.

Firearms Dispossession

 The court must order the respondent to terminate physical possession of firearms by any lawful means within 48 hours of granting an order of protection that complies with 18 U.S.C. § 922(g)(8). T.C.A. § 36-3-625.

An example of a "lawful means" is transferring possession of the firearms to a third party not prohibited from possessing weapons.

If the respondent possesses firearms as business inventory or firearms that are registered under the National Firearms Act, there are additional statutory provisions which may apply. T.C.A. § 36-3-625.

Affidavit of Dispossession

The respondent must obtain and complete an "Affidavit of Firearm Dispossession" form and return it to the court. The form can be found on the AOC's website (tsc.state.tn.us).

 There is no definite time for filing the affidavit, but judges should put a date certain on the order because failure of the respondent to turn in the affidavit of dispossession may result in criminal charges against the respondent.

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DOMESTIC VIOLENCE
AND FIREARMS BENCHCARD



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AGAINST DOMESTIC
& SEXUAL VIOLENCE

Penalties

A violation of T.C.A. § 36-3-625 is a Class A misdemeanor, and each violation shall constitute a separate offense.

The violation also constitutes an offense under T.C.A. § 39-13-113 and T.C.A. § 39-17-1307.

The respondent may be charged and convicted under any or all sections as separate offenses.

Regain Possession

When the order of protection or any successive Order is no longer in effect, the respondent may lawfully regain possession of the firearm without action by the court. T.C.A. § 36-3-625.

III. MISDEMEANOR CRIMES OF DOMESTIC VIOLENCE

Tennessee has adopted the federal definition of the misdemeanor crime of domestic violence (MCDV), and it has the following elements (T.C.A. § 39-17-1351; 18 U.S.C. § 921(33)):

- is a misdemeanor under Federal or State law;
- includes the use or attempted use of physical force, or the threatened use of a deadly weapon; and
- was committed by a current or former spouse, parent, or guardian of the victim;
 - by a person with whom the victim shares a child in common;
 - by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian;
 - or by a person similarly situated to a spouse, parent, or guardian of the victim.

The crime does not have to have as one of its elements that the defendant and the victim are in one of the qualifying relationships set out in 18 U.S.C. § 921(a)(33), 27 CFR 478.11. *United States vs. Hayes*, 129 S. CT. 107 (2009). This means that even if the relationship is not noted on the warrant, but the proof shows that the relationship is one that qualifies under 18 U.S.C. § 922(g)(9); 18 U.S.C. § 921(a)(33), the defendant cannot possess a firearm.

Firearms Prohibition

Persons who have been convicted in any court of a qualifying MCDV generally are prohibited under federal and state law from possessing any firearm or ammunition. 18 U.S.C. § 922(g)(9); T.C.A. § 39-17-1307.

Domestic Assault

In general, a domestic assault is considered to be a misdemeanor crime of domestic violence. Be aware, however, that NOT EVERY domestic assault is a MCDV. There are some relationships that fall within the definition of domestic assault, but fall outside the relationships required by the misdemeanor crime of domestic violence, i.e., dating relationships.

A person convicted of domestic assault in Tennessee can never carry a firearm. Upon conviction, the defendant must complete an Affidavit of Dispossession. (T.C.A. § 39-13-611)

Penalties

A person convicted of domestic assault who possesses a firearm may be convicted of a violation of T.C.A. § 39-17-1307 and/or T.C.A. § 36-3-625.

The handgun carry permit of a person convicted of domestic assault is required to be revoked and the person can never apply for a carry permit. T.C.A. § 39-17-1352.

IV. EXEMPTIONS AND EXCEPTIONS

A. Law Enforcement and Military Personnel

State law does not have an exemption to the firearm prohibition for:

- (1) military or law enforcement personnel who are under a qualifying order of protection; or
- (2) military or law enforcement personnel who have been convicted of domestic assault or another misdemeanor crime of domestic violence.

This means it is an offense for a law enforcement officer to carry a service firearm even when on duty while under a qualifying order of protection or after having been convicted of domestic assault.

 **There is a federal exemption from the firearms prohibition for law enforcement and military personnel for a person under a qualifying order of protection, but no exemption is provided for a law enforcement or military officer who has been convicted of a misdemeanor crime of domestic violence.**

B. Types of Firearms

There are NO EXCEPTIONS for specific types of firearms in Tennessee so that a firearms prohibition applies to the possession of all types of firearms. However, federal law makes exceptions for antique firearms, firearms made before 1898, and powder/muzzle loaders. 18 U.S.C. § 921(a)(3) and (16), 27 CFR 478.11 and 478.141(d).



SEXUAL ASSAULT JUDICIAL BENCHMARK

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V. STATUTE OF LIMITATIONS

- Anyone who commits a sexual offense in Tennessee has committed a felony. The general rules governing statute limitations for felonies would apply. T.C.A. § 40-2-101; Class A felony (15 years); Class B felony (8 years), Class C or D felony (4 years); Class E felony (2 years).
- The following statutes of limitations apply for sexual offenses committed against children:
 - A person may be prosecuted, tried and punished for any offense committed against a child on or after June 20, 2006, that constitutes a criminal offense of Aggravated Rape, Rape, Aggravated Sexual Battery, Sexual Battery, Rape of a Child, Incest, and Sexual Battery by an Authority Figure, no later than twenty-five years from the date the child becomes 18 years of age;
 - Prosecutions for any offense committed against a child on or after July 1, 1997 but before June 20, 2006, that constitutes a criminal offense of Aggravated Rape, Rape, Aggravated Sexual Battery, Sexual Battery, Rape of a Child, Incest, and the distribution/publication of obscene materials shall commence no later than the date the child reaches 21 years of age unless the applicable statute of limitations would allow a longer period of time within which to bring charges.

VI. ORDERS OF PROTECTION & THE SEXUAL ASSAULT VICTIM T.C.A. § 36-3-601 (10)

- Sexual assault victims may file for orders of protection.
- No conviction required.
- No relationship requirement.

Note: When adjudicating a sexual assault crime, ask whether there is an order of protection in place for the victim.

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SEXUAL ASSAULT JUDICIAL BENCHMARK

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I. SEXUAL ASSAULT VICTIM DEFINITION AND GENERAL ELEMENTS OF SEXUAL ASSAULT OFFENSES

A sexual assault victim is a person who has been subjected to criminal sexual conduct, including the spouse of the defendant. (T.C.A. § 39-13-501(8))

Generally, the elements of a sexual assault offense include the following:

- Unlawful sexual contact or penetration;
- Lack of consent;
- Force or coercion is used to accomplish the act.

II. SEXUAL ASSAULT OFFENSES IN TENNESSEE

A. Sexual Battery Classifications

- Sexual Battery (T.C.A. § 39-13-505)

Sexual Battery is the unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances: force or coercion; sexual contact is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the contact that the victim did not consent; the defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or the sexual contact is accomplished by fraud. (Class E felony)

- Aggravated Sexual Battery (T.C.A. § 39-13-504)

Aggravated Sexual Battery is unlawful sexual contact with any of the following circumstances: force or coercion is used to accomplish the act and the defendant is armed with a weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a weapon; the defendant causes bodily injury to the victim;

the defendant is aided or abetted by one or more other persons and force or coercion is used to accomplish the act or the defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or the victim is less than 13 years of age. (Class B felony)

- Sexual Battery by an Authority Figure (T.C.A. § 39-13-527)

Sexual Battery by an Authority Figure is unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by the following circumstances: the victim was at the time 13 years of age; but less than 18; or the victim was at the time mentally defective regardless of age; and the defendant used a position of trust to accomplish the act, i.e., legal, occupational, or parental. (Class C felony)

B. Rape Classifications

- Rape (T.C.A. § 39-13-501)

Rape is unlawful sexual penetration of a victim by the defendant or of the defendant by a victim accompanied by any of the following circumstances: force or coercion without the consent of the victim and the defendant knows or should have known that the victim did not consent; the defendant knows that the victim is mentally defective, mentally incapacitated or physically helpless; or the sexual penetration is accomplished by fraud. (Class B felony)

- "Sexual penetration" means sexual intercourse, cunnilingus, fellatio, and intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of the victim's, the defendant's, or any other person's body, but emission of semen is not required.

SEXUAL ASSAULT JUDICIAL BENCHMARK

- **Aggravated Rape (T.C.A. § 39-13-502)**
Aggravated Rape is rape with the following elements: there is a weapon; bodily injury to the victim or the defendant is aided and abetted by one or more other persons. (Class A felony)
- **Child Rape Classifications**
 - **Rape of a Child (T.C.A. § 39-13-522)**
Rape of a child is the unlawful penetration of a victim by the defendant or the defendant by a victim, if the victim is more than 3 years of age, but less than 12 years of age. (Class A felony)
 - **Aggravated Rape of a Child (T.C.A. § 39-13-531)**
Aggravated Rape of a Child is when the victim is less than 3 years of age. (Class A with Range III sentencing).
- **Statutory Rape Classifications**
 - **Mingated Statutory Rape (T.C.A. § 39-13-506(a))**
Victim is at least 15 but less than 18 years of age and the defendant is at least 4 but not more than 5 years older than the victim. (Class E felony)
 - **Statutory Rape (T.C.A. § 39-13-506 (b)(1) and (2))**
Victim is at least 13 but less than 15 years of age and the defendant is at least 4 years but less than 10 years older than the victim; or
Victim is at least 15 but less than 18 years of age and the defendant is more than 3 but less than 10 years older than the victim. (Class E felony)
- **Aggravated Statutory Rape (T.C.A. § 39-13-506(c))**
Unlawful sexual penetration of a victim by the defendant or of the defendant by the victim when the victim is at least 13 but less than 18 years of age and the defendant is at least 10 years older than the victim. (Class D felony)
- **Statutory Rape by Authority Figure (T.C.A. § 39-13-532)**
Statutory rape by an authority figure is the unlawful sexual penetration of a victim by the defendant or of the defendant by the victim when: (1) The victim is at least 13 but less than 18 years of age; (2) The defendant is at least 4 years older than the victim; and (3) The defendant was, at the time of the offense, in a position of trust, or had

- **Supervisory or disciplinary power over the victim by virtue of the defendant's legal, professional, or occupational status and used the position of trust or power to accomplish the sexual penetration; or (4) The defendant had, at the time of the offense, parental or custodial authority over the victim and used the authority to accomplish the sexual penetration. No person who is found guilty of or pleads guilty to the offense shall be eligible for probation pursuant to T.C.A. § 40-35-303 or judicial diversion pursuant to T.C.A. § 40-35-313. (Class C felony)**
- **Other Sexual Assault Offenses**
 - **Sexual Contact with Inmates (T.C.A. § 39-16-408)** It is an offense for a law enforcement officer, correctional employee, vendor or volunteer to engage in sexual contact or sexual penetration with a prisoner or inmate who is in custody at a penal institution either on or off the grounds. (Class E felony)
 - **Tennessee Trafficking Act (T.C.A. § 39-13-309)**
A person commits the offense of trafficking a person for sexual servitude when that person knowingly subjects or maintains another in sexual servitude or knowingly recruits, entices, harbors, transports, provides, or obtains by any means another person for the purpose of sexual servitude. A corporation may be prosecuted for trafficking if an agent of the corporation performs conduct which is an element of the crime while acting in the scope of his or her office or employment. (Class B felony)

III. HIV TESTING & SEXUAL OFFENSES

- When a person is arrested for aggravated rape, rape, and aggravated child rape, rape of a child, statutory rape, and statutory rape by an authority figure, the person must undergo HIV testing immediately or not later than forty-eight hours after indictment or the presentment of the information. This testing must occur with or without the request of the victim.
- The following persons may have access to the test results: the victim, the victim's parent or physician, department of health, department of correction, the person tested, and the district attorney general's office.

- **IV. EVIDENCE & SEXUALLY ORIENTED CRIMES**
 - **Prohibition Against Requiring Polygraph Exams (T.C.A. § 38-3-123)**
No law enforcement officer shall require any victim of a sexual offense, as defined in T.C.A. § 40-39-202, or violent sexual offense, as defined in T.C.A. § 40-39-202, to submit to a polygraph examination or any other test designed to detect deception or verify the truth of statements through instrumentation or by means of a mechanical device, as a condition of the officer proceeding with the investigation of the offense.
 - **Sexual Assault Victim's Prior Consensual Sexual Activity—Rape Shield Law (Rule 412 of the Tennessee Rules of Evidence)**
Rule 412 sets forth the admissibility of evidence of a victim's past sexual behavior. "Sexual behavior" means sexual activity of the alleged victim other than the sexual act at issue in the case. Reputation or opinion evidence of the sexual behavior of an alleged victim of such offense and evidence of specific instances of conduct are inadmissible unless admitted in accordance with the procedures set out in Rule 412 and required by the Tennessee or United States Constitution.
The procedures set forth in Rule 412 require:
 - The evidence is offered by the defendant on the issue of credibility of the victim, provided the prosecutor or victim has presented evidence as to the victim's sexual behavior, and only to the extent needed to rebut the specific evidence presented by the prosecutor or victim, or
 - If the sexual behavior was with the accused, on the issue of consent, or if the sexual behavior was with persons other than the accused, the evidence is offered: (1) to rebut or explain scientific or medical evidence, or to prove or explain the source of semen, injury, disease, or knowledge of sexual matters, or (2) to prove consent if the evidence is of a pattern of sexual behavior so distinctive and so closely resembling the defendant's version of the alleged encounter with the victim that it tends to prove that the victim consented to the act charged or behaved in such a manner as to lead the defendant reasonably to believe that the victim consented.

IV. EVIDENCE & SEXUALLY ORIENTED CRIMES

- **Admissibility of Video Recordings of Child Testimony (T.C.A. § 24-7-123)**
Authorizes the submission into evidence of a video recording of an interview of a child under the age of 13 by a forensic interviewer containing a statement made by the child describing any act of sexual contact with the child if:
 - The video recording is shown in a pretrial hearing and the court considers the recording to possess trustworthiness;
 - The interview was conducted by a qualified forensic interviewer (employed by a child advocacy center, bachelor's degree in related field, 3 years experience, meets training and supervision requirements, no criminal history, and participated in peer review);
 - The recording is both visual and oral;
 - Interview was recorded on one recording and is unaltered;
 - Every voice heard on the video is properly identified.**Other Considerations**
 - The video recording would be discoverable.
 - The court shall make specific findings of fact.
 - The court shall enter a protective order to restrict the video recording from further disclosure.
 - The recording may not become a public record in any legal proceeding.

IV. EVIDENCE & SEXUALLY ORIENTED CRIMES

- **Note: A prior false accusation of rape does not constitute sexual behavior as contemplated under Rule 412.**
- **Admissibility of Video Recordings of Child Testimony (T.C.A. § 24-7-123)**
Authorizes the submission into evidence of a video recording of an interview of a child under the age of 13 by a forensic interviewer containing a statement made by the child describing any act of sexual contact with the child if:
 - The video recording is shown in a pretrial hearing and the court considers the recording to possess trustworthiness;
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 - The recording is both visual and oral;
 - Interview was recorded on one recording and is unaltered;
 - Every voice heard on the video is properly identified.**Other Considerations**
 - The video recording would be discoverable.
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 - The court shall enter a protective order to restrict the video recording from further disclosure.
 - The recording may not become a public record in any legal proceeding.



**ORDER OF PROTECTION
JUDICIAL BENCHMARK**



**ORDER OF PROTECTION
JUDICIAL BENCHMARK**

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IV. ENFORCEMENT REMEDIES AND VIOLATIONS

A violation of an order of protection can result in one or all of the following:

- Civil Contempt (T.C.A. § 36-3-610/T.C.A. § 36-3-612)
- Criminal Contempt (T.C.A. § 36-3-610/T.C.A. § 36-3-612)
- Violation of Protective Order Misdemeanor: (T.C.A. § 39-13-113)
- 5 or 10 Year Extension (T.C.A. § 39-13-605(d))
- Aggravated Assault (T.C.A. § 39-13-102(c))
- Unlawful Possession of a Firearm (T.C.A. § 36-3-625, T.C.A. § 39-17-1307)

Civil and Criminal Contempt are available for both the ex parte order and the order of protection. (T.C.A. § 36-3-610/T.C.A. § 36-3-612)

Violation of Protective Order (T.C.A. § 39-13-113) only applies in cases where:

- The person received notice of the request for an order of protection or restraining order;
- The person had an opportunity to appear and be heard in connection with the order;
- The court made specific findings of fact in the order of protection or restraining order that the person had committed domestic abuse, sexual assault, or stalking.

Note: Tennessee law makes the violation of a protective order a misdemeanor crime of domestic violence.

V. EXTENSIONS OF THE ORDER OF PROTECTION (T.C.A. § 36-3-608)

Orders of Protection are ordered for a definite period of time not to exceed one year. However, orders can be extended upon motion. When extending an order of protection, the court should consider the following:

- Has the order of protection been effective in stopping the violence and keeping the respondent away?
- Does the petitioner fear that the respondent will continue the abusive behavior that resulted in the order of protection?

If the defendant is convicted of an order of protection violation, the order can be extended upon the petitioner's motion or the judge's own motion. (T.C.A. § 36-3-605(d))

- 5 or 10 Year Extension (T.C.A. § 36-3-605(d))
- The initial petition must have been served according to T.C.A. § 36-3-605(c).

- The order may be extended upon the petitioner's motion or sua sponte.
- If the respondent is found to be in violation of the order, the court may extend the order of protection up to five years or up to ten years on the second or subsequent violation.

Note: If a divorce complaint is filed, the order of protection shall remain in effect until the court in which the divorce action lies modifies or dissolves the order. (T.C.A. § 36-3-403)

VI. FULL FAITH AND CREDIT (T.C.A. § 36-3-622)

An order of protection issued pursuant to this part shall be valid and enforceable in any county of the state.

- Any valid order of protection from another state shall be afforded full faith and credit.
- For foreign orders to be valid, the respondent must have had notice and an opportunity to be heard.
- Regardless of whether a foreign order of protection has been filed in this state pursuant to this section, a law enforcement officer may rely upon a copy of any such protection order and may also rely upon the statement of any person protected by the order that the order remains in effect.

Mutual orders shall not be enforceable against the petitioner unless the respondent filed a cross or counter petition, and the court made specific findings against the petitioner.



Tennessee Coalition to End Domestic & Sexual Violence
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A Community Shares Agency

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I. LEGISLATIVE PURPOSE OF THE ORDER OF PROTECTION ACT (T.C.A. § 36-3-618)

- Recognize the seriousness of domestic abuse as a crime to assure that the law provides a victim protection from domestic abuse.
- Recognize that in the past, law enforcement agencies have treated domestic abuse crimes differently than crimes resulting in the same harm but occurring between strangers.
- Official response shall stress enforcing laws to protect the victim and prevent further harm to the victim, and the official response shall communicate the attitude that violent behavior is not excused or tolerated.

II. EX PARTE ORDERS: ORDER WITHOUT RESPONDENT PRESENT

Determine petitioner eligibility (T.C.A. § 36-3-601/T.C.A. § 36-3-602)

- Is the petitioner a domestic abuse victim? (relationship required)
 - Adults or minors who are current or former spouses;
 - Adults or minors who live together or who have lived together;
 - Adults or minors who are dating or who have dated or who have or who have had a sexual relationship;
 - Adults or minors related by blood or adoption;
 - Adult or minor children of a person in a relationship described above.
- Is the petitioner a sexual assault victim? (no relationship requirement)
 - Aggravated rape;
 - Rape;
 - Statutory Rape;
 - Rape of a Child;
 - Aggravated Sexual Battery;
 - Sexual Battery;
 - Sexual Battery by an Authority Figure.

- Is the petitioner a stalking victim? (no relationship requirement)
- The petitioner and the respondent can be adults or minors.
- If the petitioner is a minor, the statute provides that the following may sign the petition:
 - One of the person's parents or that person's guardian;
 - The caseworker at a not-for-profit organization receiving funding for family violence or child abuse prevention;
 - The Guardian ad Litem if the court has appointed one;
 - The Department of Children's Services if the child is in state custody.

Note: There is no statute of limitations on the abuse for filing an order of protection, and there is no requirement to file a police report or other criminal charges to obtain order of protection relief. Venue is waived unless the respondent appears in court and objects to the venue.

Determine whether there is good cause (T.C.A. § 36-3-605)

- Is there an immediate and present danger of abuse to the petitioner? Consider the following:
 - A history of violence;
 - Respondent's pattern of conduct;
 - Petitioner's injuries;
 - Petitioner's fear of retaliation;
 - Respondent's access to weapons;
 - Respondent's history of stalking;
 - Respondent's criminal record;
 - Respondent's use of drugs or alcohol;
 - Respondent's threats of suicide;
 - Respondent's history of mental illness;
 - Threats to attack the petitioner, the children, or other family members;
 - Threats to animals (pets);
 - Threats or attacks on family or household members.

Court Costs (T.C.A. § 36-3-617)

Notwithstanding any other provision of law to the contrary, no victim shall be required to bear the costs, including any court costs, filing fees, litigation taxes or any other costs associated with the filing, issuance, registration, service, dismissal, or nonsuit, appeal or enforcement of an ex parte order of protection, order of protection, or a petition for either such order, whether issued inside or outside of the state. If the court, after the hearing, issues or extends an order of protection, all court costs, filing fees, litigation taxes and attorney fees shall be assessed against the respondent.

- There is no initial fee for a petition to the court for any action on an order of protection.
- If the court does not issue or extend an order of protection, the court may assess all court costs against the petitioner if the court finds by clear and convincing evidence: (a) the petitioner is not a victim and that such determination is not based on the petitioner's request to dismiss the order, failure to attend the hearing or incorrectly filling out the petition; AND (b) the petitioner knew that the allegations were false at the time the petition was filed.

Important!

- Ex Parte orders stay in effect until the time of the hearing on the matter. (T.C.A. § 36-3-605)
- Courts shall use the Administrative Office of the Courts forms. (T.C.A. § 36-3-604) <http://www.tsc.state.tn.us>
- If the petitioner does not meet the standard of proof for an ex parte order, the judge is required to set a hearing for review.
- If the ex parte order is dismissed, the judge must hear the pending petition.

Relief Available:

- Directing the respondent to refrain from committing or threatening additional acts of abuse, including domestic abuse, sexual assault, and stalking against the petitioner and the minor children;
- Prohibiting the defendant from coming about the petitioner for any purpose, from telephoning, contacting, or otherwise communicating with the petitioner directly or indirectly;
- Ordering the respondent to leave the shared residence while the order of protection petition is pending a hearing.

Enforcement of the Ex Parte Order:

An ex parte order of protection can be enforced by arrest once the respondent has been served or has actual knowledge of the order. (T.C.A. §36-3-611) Note: Violations of ex parte orders of protection do not require physical contact.

Enforcement Remedies of the Ex Parte Order:

- Civil Contempt (T.C.A. § 36-3-610/T.C.A. § 36-3-612)

- Criminal Contempt (T.C.A. § 36-3-610/T.C.A. § 36-3-612)
- Warrantless Arrest (T.C.A. § 36-3-611(a))

III. ORDERS OF PROTECTION

If the court finds that the Petitioner has proven the allegations in the petition by a preponderance of the evidence, then the court can grant certain protections to the petitioner against further domestic abuse, sexual assault, and stalking. (T.C.A. § 36-3-606)

- Directing the respondent to refrain from committing domestic abuse, stalking, or sexual assault, or threatening to do the same;
- Prohibiting the respondent from coming about the petitioner for any purpose, from telephoning, contacting, or otherwise communicating with the petitioner directly or indirectly;
- Granting to the petitioner possession of the residence or household to the exclusion of the respondent by evicting the respondent, by restoring possession to the petitioner, or by both;
- Ordering this relief does not change ownership of the property.

- Directing the respondent to provide suitable alternate housing for the petitioner when the respondent is the sole owner or lessee of the residence or household;
- Directing the respondent to pay the petitioner all costs, expenses and fees pertaining to the petitioner's breach of a residential lease if the court finds that continuing to reside in the residence may jeopardize the life, health and safety of the petitioner or the petitioner's children. This language does not alter the terms, liability, or parties to the lease agreement;
- Awarding temporary custody of, or establishing temporary visitation rights with regard to, any minor children born to or adopted by the parties;
- Courts should consider the history of domestic violence and the violent behavior of the respondent in setting visitation and craft custody orders that will protect the petitioner and the minor children.
- Awarding financial support to the petitioner and such persons as the respondent has a duty to support
- Child support should be set based upon the Tennessee Child Support Guidelines.
- The Guidelines allow for deviations.

- Directing the respondent to attend available counseling programs that address violence and control issues (preferably a batterers' intervention program certified by the Domestic Violence State Coordinating Council) or substance abuse problems;
- Directing the care, custody, or control of any animal owned, possessed, leased, kept, or held by either party or a minor residing in the household. The court cannot place the animal in the care, custody, or control of the respondent, but the court can place the animal in the care, custody, or control of the petitioner or in an appropriate animal foster situation.

- An order of protection issued pursuant to this part that fully complies with 18 U.S.C. § 922(g)(8) shall contain the disclosures set out in § 36-3-625(a).

- T.C.A. § 36-3-625 requires that a judge, upon issuing an order that complies with provisions of 18 U.S.C. § 922 (g) (8), must order the respondent to terminate physical possession of firearms by any lawful means within 48 hours of granting the order.

Note: Respondent must complete an "Affidavit of Firearm Disposition" form and return it to the court. The court should set a date certain for the return of this form.

- The Court is not limited to the relief specifically enumerated in the statute. To be effective, Orders of Protection must include all necessary protection against future abuse, given the needs of the victim.
- Other remedies include:
 - Payment of utilities;
 - Cost of replacement of locks;
 - Use of an automobile;
 - Return of immigration and other important papers;
 - Restitution for property damage.

Findings

- Courts should make findings of fact regarding the order of protection. Findings should reflect the grounds for the order of protection, whether domestic abuse, sexual assault, or stalking.

Important! Agreed Orders Of Protection

- The Respondent and the Petitioner may enter into an agreed order of protection, or a court-approved consent agreement. This is no different than an order of protection that was not entered into by agreement. The same protections and enforcement remedies are still available, including prohibitions on weapons as set forth in T.C.A. § 39-17-1351(g)(8) and T.C.A. § 39-17-1316(a)(1).

- Mutual Orders of Protection and no contact orders are not permitted in Tennessee and are unenforceable unless there is a cross or counter complaint that is fully proven before the court.

Weapons

- A person under an order of protection cannot possess, purchase, receive, or transport a firearm. (18 U.S.C.S. § 922 (g)(8), T.C.A. § 36-3-625)
- T.C.A. § 36-3-625 requires that a judge, upon issuing an order that complies with provisions of 18 U.S.C.S. § 922 (g) (8), must order the respondent to terminate physical possession of firearms by any lawful means within 48 hours of granting the order. Lawful means includes the following:

- Transferring possession to a third party who is not prohibited from possessing firearms, within forty-eight (48) hours.
- If the firearm is registered under the National Firearms Act, compiled in 26 U.S.C.S. §§ 5801 et seq., that requires the approval of any state or federal agency

prior to the transfer of the firearm, the respondent may comply with the disposition requirement by having the firearm or firearms placed into a safe or similar container that is securely locked and to which the respondent does not have the combination, keys or other means of normal access.

- If the respondent is licensed as a federal firearms dealer or a responsible party under a federal firearms license, the determination of whether such an individual possesses firearms that constitute business inventory under the federal license shall be determined based upon the applicable federal statutes or the rules, regulations and official letters, rulings and publications of the bureau of alcohol, tobacco, firearms and explosives. The order of protection shall not require the surrender or transfer of the inventory if there are one (1) or more individuals who are responsible parties under the federal license who are not the respondent subject to the order of protection.

The Court must provide the following notices to the respondent regarding the disposition of firearms. Upon issuance of an order of protection that fully complies with 18 U.S.C.S. § 922(g)(8), the order shall include on its face the following disclosures:

- That the respondent is required to dispose the respondent by any lawful means, such as transferring possession to a third party who is not prohibited from possessing firearms, of all firearms the respondent possesses within forty-eight (48) hours of the issuance of the order;
- That the respondent is prohibited from possessing a firearm for so long as the order of protection or any successive order of protection is in effect, and may resume possession of the disposed firearm at such time as the order expires or is otherwise no longer in effect; and
- Notice of the penalties associated for any violation of this section, including unlawful possession of a firearm under T.C.A. § 39-17-1307(f).

Note: Respondent must complete an "Affidavit of Firearm Disposition" form and return it to the court. The court should set a date certain for the return of this form.

- A person under an order of protection cannot have a permit to carry a handgun. (T.C.A. § 39-17-1351(c)(8))
- A person cannot sell a firearm to anyone who is prohibited by a qualifying order of protection. (T.C.A. § 39-17-1316(a)(1) and 18 U.S.C.S. § 922(d)(8))
- A person who possesses a firearm and is under a qualifying order of protection is subject to a class A misdemeanor. (T.C.A. § 36-3-625, T.C.A. § 39-17-1307, T.C.A. § 39-13-113)

Note: There are no exceptions for law enforcement officers or military personnel.



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ORDER OF PROTECTION

CLERK OF THE COURT CARD

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I. LEGISLATIVE PURPOSE OF THE ORDER OF PROTECTION ACT (T.C.A. § 36-3-618)

- Recognize the seriousness of domestic abuse as a crime to ensure that the law provides a victim of domestic abuse protection from domestic abuse.
- Recognize that in the past law enforcement agencies have treated domestic abuse crimes differently than crimes resulting in the same harm but occurring between strangers.
- Official response shall stress enforcing laws to protect the victim and prevent further harm to the victim, and the official response shall communicate the attitude that violent behavior is not excused or tolerated.

II. EX PARTE ORDERS: ORDER WITHOUT RESPONDENT PRESENT

STOP!

- There is no statute of limitations on the abuse for filing an order of protection, and there is no requirement to file a police report or other criminal charges to obtain order of protection relief. Venue is waived unless the respondent appears in court and objects to the venue.
- A named respondent may also file a petition for an order of protection. Cross petitions are allowed and must be decided based upon the appropriate standard of review.

Relationship Categories:

Clerk's Card 2013

Updated July 1, 2013

- (T.C.A. § 36-3-601/T.C.A. § 36-3-602)

Is the petitioner a domestic abuse victim? (Relationship required)

- Adults or minors who are current or former spouses;
 - Adults or minors who live together or who have lived together;
 - Adults or minors who are dating or who have dated or who have had a sexual relationship;
 - Adults or minors related by blood or adoption;
 - Adult or minor children of a person in a relationship described above.
- Has the petitioner been subjected to, threatened with, or placed in fear of any form of sexual assault as defined by the following sexual assault crimes? (No relationship requirement)
 - Aggravated rape;
 - Rape;
 - Statutory Rape;
 - Rape of a Child;
 - Aggravated Sexual Battery;
 - Sexual Battery;
 - Sexual Battery by an Authority Figure.
- Has the petitioner been subjected to, threatened with, or placed in fear of the offense of stalking? Stalking means a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested, and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested. (No relationship requirement)
- The petitioner and the respondent can be adults or minors.
- If the petitioner is a minor, the statute provides that the following may sign the petition:
 - One of the person's parents or that person's guardian;
 - The caseworker at a not-for-profit organization receiving funding for family violence and child abuse prevention and shelters;
 - The guardian ad litem if the court has appointed one;
 - The Department of Children's Services if the child is in state custody.

Venue

- Venue for a petition for an order of protection, and all other matters relating to orders of protection, shall be
 - in the county where the respondent resides or
 - the county in which the domestic abuse, stalking or sexual assault occurred.
- If the respondent is not a resident of Tennessee, the petition may be filed in the county where the petitioner resides
- Venue is waived unless the respondent appears in court and objects to the venue.

FORMS (T.C.A. § 36-3-604)

The office of the clerk of court shall provide forms that may be necessary to seek a protection order under this part. These forms shall be limited to use in causes filed under this part and they shall be made available to all who request assistance in filing a petition. The clerk may obtain the most current forms by printing them from the web site of the administrative office of the courts. <http://www.tsc.state.tn.us/forms-publications>

The office of the clerk shall also assist a person who is not represented by counsel by filling in the name of the court on the petition, by indicating where the petitioner's name shall be filled in, by reading through the petition form with the petitioner, and by rendering any other assistance that is necessary for the filing of the petition.

All such petitions that are filed pro se shall be liberally construed procedurally in favor of the petitioner.

Order of Protection Forms promulgated by the Administrative Office of the Courts SHALL be used exclusively in all courts exercising jurisdiction over orders of protection.

STOP!

- If a petitioner does not provide you with an Administrative Office of the Courts' promulgated form, you must file the pleading in whatever form provided.

COURT COSTS (T.C.A. § 36-3-617)

Notwithstanding any other provision of law to the contrary, no victim shall be required to bear any costs associated with the enforcement of an ex parte order of protection, order of protection, or a petition for either such order, including any court costs, filing fees, litigation taxes or any other costs associated with the following:

- Filing
- Issuance
- Registration
- Service
- Dismissal
- Nonsuit
- Appeal

STOP!

- There is no initial fee for a petition to the court for any action on an order of protection.
- Look at the order to make sure that the judge has assessed fees.
- A Clerk cannot prevent any petitioner from filing a petition for an order of protection even if there are outstanding fees from prior petitions. This means the clerk cannot require the petitioner to pay off any fees to file the order of protection.
- A Clerk cannot charge a petitioner for copy requests of the ex parte order or any of the pleadings related to the order of protection.
- There is no initial fee for a petition to the court for any action on an order of protection.

Service (T.C.A. § 36-3-605):

- The court shall cause a copy of the petition and notice of the date set for the hearing on such petition, as well as a copy of any ex parte order of protection, to be served upon the respondent at least 5 days prior to such hearing. An ex parte order issued pursuant to this part shall be PERSONALLY served upon the respondent.
- If the respondent is not a resident of Tennessee, the ex parte order shall be served pursuant to T.C.A. §§ 20-2-215 and 20-2-216. Such notice shall advise the respondent that the respondent may be represented by counsel.
- In every case, unless the court finds that the action would create a threat of serious harm to the minor, when a petitioner is under eighteen (18) years of age, a copy of the petition, notice of hearing and any ex parte order of protection shall also be served on the parents of the minor child, or in the event that the parents are not living together and jointly caring for the child, upon the primary residential parent.-

STOP!

- In the case of an order of protection against a minor, the best practice is to serve the minor and the parent or legal guardian of the minor.

Ex Parte Determination and Relief:

If you are responsible for issuing the order of protection, you should consider these factors to determine immediate danger or harm (T.C.A. § 36-3-605):

- A history of violence;
- Respondent's pattern of conduct;
- Petitioner's injuries;
- Petitioner's fear of retaliation;
- Respondent's access to weapons;
- Respondent's history of stalking;
- Respondent's criminal record;
- Respondent's use of drugs or alcohol;
- Respondent's threats of suicide;
- Respondent's history of mental illness;
- Threats to attack the petitioner, the children, or other family members;
- Threats to animals (pets);
- Threats or attacks on family or household members.

Ex Parte Relief Available

- Directing the respondent to refrain from committing or threatening additional acts of abuse, including domestic abuse, sexual assault, and stalking against the petitioner and the minor children;
- Prohibiting the defendant from coming about the petitioner for any purpose, from telephoning, contacting, or otherwise communicating with the petitioner directly or indirectly.
- Ordering the respondent to leave the shared residence while the order of protection petition is pending a hearing.

STOP!

- If the ex parte order is not issued, you must still set the petition for a hearing and there must be service on the petition.

- Ex parte orders stay in effect until the time of the hearing on the matter. (T.C.A. § 36-3-605).
- If the ex parte order is dismissed, the judge must hear the pending petition.

WEAPONS

- A person under an order of protection cannot possess, purchase, receive, or transport a firearm. (18 U.S.C.S. § 922 (g)(8), T.C.A. § 36-3-625). As a requirement of disposing of the firearm, the respondent must file an Affidavit of Firearm Dispossession with the Clerk's Office.

IV. ENFORCEMENT AND FINANCIAL PENALTIES

The petitioner has the right to request relief if the respondent has violated the ex parte order of protection or the final order of protection, and such request can be made through filings with the clerk's office.

Financial Penalties (T.C.A. § 36-3-610)

- A fifty dollar fine related to the violation of the order of protection.
- A financial penalty bond related to the violation of the order of protection.

Fifty-Dollar Fine (T.C.A. § 36-3-610(b) (1))

- A person who violates an order of protection must pay a \$50 fine related to the violation of the order protection.
- The clerk must send these collected fines, on a monthly basis, to the state treasurer who must deposit it in the domestic violence community fund.

Financial Penalty (T.C.A. § 36-3-610 (b)(2))

- In the event of a conviction on an order of protection violation, the Court shall require a financial penalty bond (not appearance bond) of respondent until the order of protection expires.
- The financial penalty bond shall not be less than \$2,500 and shall be set at whatever figure the court determines necessary to reasonably assure the safety of the petitioner.

- Bond shall be payable upon forfeit (non-compliance with terms of bond).
- Respondent may deposit with clerk a sum of money in cash equal to amount of bond.
- Clerk may put monies received for bond or forfeiture of bond in interest bearing account.
- Interest received is payable to the clerk's office.
- Failure to comply with ordered bond shall be punished as contempt of court pursuant to title 29, chapter 9.
- If respondent doesn't comply with the conditions of bond, the court shall enter an order forfeiting the bond.
- Clerk mails notice to respondent of forfeiture.
- If within 30 days of the date of forfeiture, the respondent doesn't satisfy the court that compliance with conditions was met, the court enters judgment for the state against respondent for the amount of bond and costs of court proceedings.
- Judgment and costs can be collected in the same manner as judgment entered in a civil action.
- Amounts collected for judgment of the amount of bond shall be paid quarterly to the AOC and allocated equally by AOC to:
 - Provide legal representation to low income Tennesseans per 16-3-308
 - Domestic violence state coordinating council
 - Tennessee Court Appointed Special Advocates Association (CASA)
 - Childhelp

V. EXTENSIONS OF THE ORDER OF PROTECTION (T.C.A. § 36-3-608)

- Orders of Protection are issued for a definite period of time not to exceed one (1) year. However, orders can be extended upon motion for an additional year.
- An order of protection can be extended if there is a conviction for a violation for up to five (5) years or ten (10) years on the second or subsequent violation.

STOP!

- If a divorce complaint is filed, the order of protection shall remain in effect until the court in which the divorce action lies modifies or dissolves the order. (T.C.A. §36-3-603).
- If the defendant is convicted of an order of protection violation, the order can be extended upon the petitioner's motion or the judge's own motion. (T.C.A. § 36-3-605(d)).

V. APPEALS

- If the respondent appeals the grant of the order of protection, the order of protection remains in effect until further findings have been made on the order.

VI. FULL FAITH AND CREDIT (T.C.A. § 36-3-622)

- An order of protection issued pursuant to this part shall be valid and enforceable in any county of the state.
- Any valid order of protection from another state shall be afforded full faith and credit.
- For foreign orders to be valid, the respondent must have had notice and an opportunity to be heard.
- Regardless of whether a foreign order of protection has been filed in this state pursuant to this section, a law enforcement officer may rely upon a copy of any such protection order and may also rely upon the statement of any person protected by the order that the order remains in effect.
- Mutual orders shall not be enforceable against the petitioner unless the respondent filed a cross or counter petition, and the court made specific findings against the petitioner.

**Conflict of Interest Policy
BIPS Certification Decisions**

If a committee or a council member has a conflict of interest with a program seeking certification, the member should recuse him/herself immediately from voting or having any kind of input on the decision-making regarding the certification of the program.

- (A) A conflict of interest exists when the member of the Council or BIPS Committee:
- (1) Is an applicant;
 - (2) Is a Current or former employee within the past three years of the applicant or the program seeking certification;
 - (3) Is a competitor of the program seeking certification;
 - (4) Has a financial interest in the program seeking certification. A person has a financial interest if the person has directly or indirectly, through business, investment, or family:
 - i. An ownership or investment interest in any entity with which the organization has a transaction or arrangement,
 - ii. A compensation arrangement with the organization or with any entity or individual with which the organization has a transaction or arrangement,
 - iii. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the organization is negotiating a transaction or arrangement.
 - (5) Has a personal interest in the program seeking certification that would influence the application process.
- (B) If the program or applicant seeking certification believes that a conflict of interest exists, the program or applicant shall have thirty (30) days to set forth this conflict in writing to the Executive Committee of the Council. Otherwise, the conflict is deemed waived.

CONFLICT OF INTEREST

POLICY:

Tennessee Coalition expects employees and volunteers to scrupulously avoid any conflict, direct or indirect, between their own respective individual, professional or business interests and the interests of Tennessee Coalition or its clients.

PRACTICES:

1. A conflict of interest exists if an employee or volunteer:
 - Seeks or obtains for benefit or advantage, except in conformity with Tennessee Coalition policy, anything of more than nominal value that would not normally be available to the employee or volunteer.
 - Uses or makes available for benefit or advantage, except in conformity with Tennessee Coalition policy, the property, records, services, name, emblem, or endorsement of Tennessee Coalition affiliation of the employee or volunteer.
 - Publicly uses the employee's or volunteer's affiliation or that of any other Tennessee Coalition volunteer or employee in connection with personal association with partisan politics, denominationally religious matters or positions on issues that are not in conformity with Tennessee Coalition policy.
2. All employees shall disclose all real or apparent conflicts of interest that they discover or that have been brought to their attention in connection with the activities of the Tennessee Coalition to End Domestic and Sexual Violence. Disclosure means providing to the Business Manager a written description of the facts giving rise to the conflict of interest. A disclosure statement, a sample of which is made a part of this policy, shall be made available to employees to assist in identifying any conflicts of interest. However, you should disclose any possible conflict of interest before you finalize any business arrangement. Do not wait until the annual disclosure statement to make the disclosure. You can obtain the forms for this disclosure from the Business Manager. The written notices of disclosures will be reviewed by the Management Team. The Executive Director will respond to the disclosure in writing if there is a conflict.
3. While individual employees are encouraged to be politically involved as responsible citizens, Tennessee Coalition takes a non-partisan role relating to political issues and unequivocally forbids the use of its funds for the support of political parties or candidates. No employee is authorized to make or approve such a contribution on behalf of the organization.
4. As employees and volunteers have questions about potential conflict of interest, they are responsible for taking initiative to explore the potential conflict to the point of clarity.