

July 2015

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Recommended Citation

Voris, Michael J. (1991) "The Domestic Violence Civil Protection Order and The Role of the Court," *Akron Law Review*: Vol. 24 : Iss. 2 , Article 6.

Available at: <http://ideaexchange.uakron.edu/akronlawreview/vol24/iss2/6>

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THE DOMESTIC VIOLENCE CIVIL PROTECTION ORDER AND THE ROLE OF THE COURT

by

JUDGE MICHAEL J. VORIS*

Domestic violence is the most common manifestation of violence in our communities today.¹ Until recent years, however, society's reaction has commonly been to justify or minimize spouse abuse, child abuse, child sexual abuse, and elder abuse that occur within the family. As a consequence, legislative awareness of intra-family violence did not take place in Ohio until the late nineteen-seventies (1970's). Awareness came about largely as a result of increased intellectual and political concentration on questions of gender, and broad interaction between community groups, legal service lawyers, shelter workers, and law enforcement officers.² Concurrently, a large network of legal and community groups heightened public and professional consciousness of the extent and magnitude of family violence and implemented steps to deal with the problem through lobbying, persuading, and pressuring policymakers.³

The Domestic Violence Act, Amended Substitute House Bill 835, which passed in March of 1979, provided, for the first time in Ohio, both civil and criminal remedies for the victims of domestic violence. This article will examine the civil remedies and offer compelling practical reasons why the civil remedy benefits a large number of victims. The judiciary bears a critical role in affording adequate legal protection to victims of domestic violence. It is this aspect, the role of the Referees and Judges and the problems they face in the application of the legislation in Common Pleas Court, that is the primary focus of this article.

OVERVIEW OF DOMESTIC VIOLENCE AND THE LEGAL SYSTEM

Historically, the treatment of women and children under the law has been extremely harsh.⁴ The tradition of viewing women and children as property or as a source of labor for the family economic unit flourished through the centuries and came to be formalized in our laws and legal institutions.⁵ The medieval doctrine of

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¹ L. DICKSTEIN & C. NADELSON, FAMILY VIOLENCE: EMERGING ISSUES OF A NATIONAL CRISIS 5 (1989).

² Lerman & Goldzweig, *Protection of Battered Women: A Survey of State Legislation*, 6 WOMEN'S RTS. L. REP. 271 (1980).

³ V. VAN HASSELT, HANDBOOK OF FAMILY VIOLENCE 4 (1988).

⁴ Brown, Emerson, Falk, Freedman, *The Equal Rights Amendment*, 80 YALE L. J. 871 (1971).

⁵ See L. KANOWITZ, WOMEN AND THE LAW: THE UNFINISHED REVOLUTION (1969).

coverture provided the basis for a woman to lose her legal identity upon marriage⁶ and also provided a rationale for assuming the wife's continuing assent to sexual acts.

The first case to be decided in a U.S. Court acknowledging the husband's right to physically discipline his wife was in 1824.⁷ A North Carolina Court in 1864 decided that the state should not interfere with domestic chastisement unless "some permanent injury by inflicted or there be an excess of violence."⁸ It was not until 1871 that the right of chastisement was repudiated. The Alabama Supreme Court ruled that women were deserving of the equal protection of the law.⁹

Despite substantial changes which occurred in the early 20th century in the United States, including the passage of the 19th Amendment, the subordinate legal status of women persisted.

Children fared even worse than women under the law. Not only has the exploitation of children occurred in abuses of labor and discipline, but the exploitation has extended to the sexual gratification of adults. The sexual victimization of children was gradually perceived to be immoral, but that perception did not result in the development of significant legal protective measures for children from such abuse.

One of the earliest American cases involving child abuse by a parent was reported in 1837.¹⁰ It was not until 1899 that America's first juvenile court was established in Chicago, providing children with protection and opportunity previously unavailable in the legal system. By 1917, juvenile court legislation was enacted in all but three (3) states.¹¹

Although these courts provided the first formal intervention in the cases of abuse or neglect, they did so by conceding that most of these were family problems, not crimes. The courts designed to protect children also protected those who abused

⁶ W. BLACKSTONE, COMMENTARIES ON THE LAW 189 (B. Gault ed., from the abridged edition of W.H. Browne 1892). The term coverture is derived from the phrases "femme-covert" or "foemina viro co-operata." Because the wife is under the protection or "cover" of her husband, she is said to be "cover-baron," and her condition during marriage is called her "coverture."

⁷ *Bradley v. State*, 2 Miss. (1 Walker) 158 (1824), *overruled in* *Harris v. State*, 71 Miss. 462, 14 So. 266 (1894). In *Bradley*, the husband was charged with assaulting his wife, by beating and bruising her.

⁸ *State v. Black*, 60 N.C. (Win.) 162, 163 (1864). In *Black*, the husband pulled his wife to the floor by her hair and restrained her.

⁹ *Fulghan v. State*, 46 Ala. 143, 147 (1871). In *Fulghan*, the court reasoned that it was no longer necessary to teach wives obedience to their husbands by use of force.

¹⁰ *Johnson & Wife v. State*, 21 Tenn. (2 Hum) 283 (1837). In *Johnson*, the court held the standard for punishment of a child was not to exceed the bounds of moderation so as to inflict cruel and merciless punishment.

¹¹ B. DZIECK & C. SCHUDSON, ON TRIAL: AMERICA'S COURTS AND THEIR TREATMENT OF SEXUALLY ABUSED CHILDREN 25 (1989).

them.¹² Between 1960 and 1980 statutes were enacted in every state requiring mandatory reports of child abuse or neglect.

Abuse of men has received very little attention. This is due, in part, to men's reluctance to report their victimization, endorsing the patriarchal notion that the man should be the strong, dominant figure in the family.¹³ Even less is known and reported about elder neglect, abuse, and exploitation. Each of these areas, however, falls within the scope of the term "domestic violence."

OHIO'S LEGISLATIVE RESPONSE TO DOMESTIC VIOLENCE

It has only been a relatively short time since society has withdrawn its consent to domestic violence. The Pennsylvania legislature was a forerunner in recognizing domestic violence, particularly wife battering, as a crime.¹⁴ The Ohio Attorney General's Task Force on Domestic Violence issued a report in May, 1978, which was the impetus for comprehensive legislation known as The Domestic Violence Act, House Bill 835. The Act became effective on March 27, 1979.¹⁵ House Bill 920, effective April 9, 1981,¹⁶ attempted to resolve many of the legal and drafting issues which developed from Amended Sub. House Bill 835.

The Act created the criminal offense of domestic violence¹⁷ and instituted civil relief¹⁸ in the form of a civil protection order to be administered by the Domestic Relations Division of the Court of Common Pleas or by the Court of Common Pleas in counties that have no Domestic Relations Division.

PRACTICAL APPLICATION OF THE CIVIL STATUTE

Civil Protection Order

1. Description

The Civil Protection Order grants immediate relief to victims of domestic violence¹⁹ by enjoining batterers from further violence against a family or household

¹² See *Id.* at 26.

¹³ L. KARP & C. KARP, *DOMESTIC TORTS: FAMILY VIOLENCE, CONFLICT AND SEXUAL ABUSE* 27 (1989).

¹⁴ Lerman, *State Legislation on Domestic Violence in 3 Response to Violence in the Family* 1, 29-42 (Aug./Sept. 1980), where it is stated that 44 states, following the lead of Pennsylvania which passed the *Protection from Abuse Act*, PA. STAT. ANN. tit. 35, Sections 10181-10190 (Purdon 1977) in 1976, have passed legislation that deal with family violence.

¹⁵ Am. Sub. House Bill 835, 1978 Ohio Laws 137.

¹⁶ Am. Sub. House Bill 920, 1981 Ohio Laws 138 (codified in O.R.C. Sections 299.25, 2929.26, 2945.42, 3113.31, 3113.33 (Page 1981 & Supp. 1982)).

¹⁷ OHIO REV. CODE ANN. § 2919.25 (Page 1989).

¹⁸ *Id.* at § 3113.31(A)(2).

¹⁹ OHIO REV. CODE ANN. § 3113.31(A)(1) (Page 1989) defines domestic violence as the occurrence of one or more of the following acts against a family or household member:

member.²⁰ The Civil Protection Order provides the only remedy for abuse that is not yet criminal (intimidation or harassment), and for behavior that is a misdemeanor crime with insufficient evidence for charging a conviction (threats or shoving). The Civil Protection Order can provide victims with legal relief when the victim does not want the batterer charged criminally or jailed for a misdemeanor criminal offense. The choice of this remedy does not preclude any other available civil or criminal remedy.²¹ For cases involving abuse for someone other than a spouse or for a married person who does not seek to end the relationship, the Civil Protection Order provides unique relief. In order to obtain a Civil Protection Order, the person seeking relief must file a petition requesting an ex parte order. The Court must then hold an ex parte hearing on the same day that the petition is filed.²² Ohio does not require that the petitioner be represented by an attorney. A temporary order may be entered by the Court at the ex parte hearing on a showing of good cause. Good cause is liberally defined as immediate and present danger of domestic violence to the family or household member.²³ "Immediate and present danger includes, but is not limited to, situations in which the respondent has threatened the family or household member with bodily harm or in which the respondent has previously engaged in domestic violence against the family or household members."²⁴ However, the statute is silent as to how recent the incident must be to qualify the victim for an order.

If the Court enters a temporary order described in O.R.C. Section 3113.31(E)(1)(b) or (c),²⁵ the Court then schedules a full hearing to take place within seven (7) days after the ex parte hearing. If any other type of protection order is issued by the Court that is authorized under Section 3113.31(E), a full hearing must be scheduled within ten (10) days after the ex parte hearing. The statute empowers the Court to grant any protection order or approve any consent agreement designed to bring about a

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- b) placing another person by the threat of force in fear of imminent serious physical harm;
 - c) committing any act with respect to a child that would result in the child being an abused child as defined in Section 2151.031 of the Revised Code.

²⁰ Ohio Rev. Code Ann. § 3113.31(A)(3) (Page 1989) defines family or household members as any of the following who is residing or has resided with the respondent:

- a) a spouse, a person living as a spouse, or a former spouse of the respondent;
- b) a parent or child of the respondent, or another person related by consanguinity or affinity to the respondent;
- c) a parent or child of a spouse, person living as a spouse, or former spouse of the respondent, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the respondent.

(4) "Person living as a spouse" means a person who is living or has lived with the respondent in a common law marital relationship, who otherwise is cohabiting with the respondent, or who otherwise has cohabited with the offender within one (1) year prior to the date of the alleged occurrence of the act in question.

²¹ *Id.* at § 3113.31(G).

²² OHIO REV. CODE ANN. § 3113.31(D) (Page 1989).

²³ *Id.*

²⁴ *Id.*

²⁵ Eviction of the respondent from the residence or household of the petitioner or other family member or to permit the respondent to provide suitable, alternative housing.

cessation of domestic violence.²⁶ The Court may consider whether there is a pending action for divorce or dissolution and whether a request has been made or an order granted pursuant to Civil Rule 75, but the filing of an action for divorce is not a basis on which to deny a Civil Protection Order.²⁷ If the person filing the petition does not request an ex parte order, the Court shall proceed to grant a full hearing on the matter.²⁸

If a protection order has been issued as a result of a prior action between the respondent and petitioner or one or more of the family or household members, the Court may prohibit the petitioner from inviting or admitting the respondent to the residence while the order is in effect.²⁹ However, no order or agreement under this section “. . . shall in any manner affect title to any real property.”³⁰

Any protection order or approved consent agreement is valid until a date certain, that date not to exceed one (1) year³¹ unless either party files an action for a divorce, dissolution, or separate maintenance. If such an action is filed, an order

²⁶ The Civil Protection Order or agreement may:

1. Direct the respondent to refrain from abuse;
2. Evict the respondent from the residence or household when petitioner or other family or household member solely owns or leases the residence or household; order respondent to vacate the premises when the residence or household is jointly owned or leased by the respondent, and the petitioner or other family or household member;
3. When the respondent is the sole owner or leases of the residence or household and has a duty to support the petitioner or other family or household member living in the residence or household, the Court may order the respondent to vacate the premises, or, in the case of a consent agreement, allow the respondent to provide suitable, alternative housing;
4. Award temporary custody of, or establish temporary visitation rights with regard to minor children, if no other Court has determined or is determining custody or visitation rights;
5. Require the respondent to maintain support which he/she has customarily provided or which he/she has a legal duty to provide;
6. Require the respondent, petitioner, victim of domestic violence, or any combination of those persons, to seek counseling.
7. Require the respondent to refrain from entering the residence, school, business, or place of employment of the petitioner or family or household member;
8. Direct the apportionment to permit the use of a motor vehicle by the petitioner or other family or household member;
 - Direct the apportionment of household and family personal property
 - Grant any other equitable and fair relief. OHIO REV. CODE ANN. § 3113.31(E) (Page 1989).

²⁷ Thomas v. Thomas, 44 Ohio App. 3d 6, 540 N.E. 2d 745 (Ohio Ct. App. 1988).

²⁸ OHIO REV. CODE ANN. § 3113.31(D) (Page 1989).

²⁹ OHIO REV. CODE ANN. § 3113.31(E)(2) (Page 1989).

³⁰ *Id.* at § 3113.31(E)(4).

³¹ *Id.* at § 3113.31(E)(3).

of temporary custody, visitation or support must terminate within sixty (60) days after the filing of the action.³²

2. Usage

The domestic violence civil protection order is far more comprehensive than the criminal remedy. A wide array of persons may seek civil relief.³³ There is no residency requirement. Domestic violence is defined more liberally in the civil statute than in the criminal statute.³⁴ The Civil Protection Order applies when any injury results, as opposed to the more stringent criminal sanctions requirement of "serious physical harm." The mere threat of force is sufficient to invoke the civil order but not to sustain the criminal charge. From the victim's standpoint, the critical issue is to halt the abuse. The Civil Protection Order provides that the victim may be afforded enforceable legal rights on the same day that an ex parte hearing is requested.³⁵ However, an order to halt the abuse without ordering the abuser to stay away may be totally ineffective. The Civil Protection Order statute authorizes the Court to evict the batterer from the home and to order the batterer to stay away.³⁶ This differs from the criminal remedy, where the victim may have to live with the batterer during the time period before trial.³⁷ Further, the Civil Protection Order may address other immediate concerns such as the issues of custody, visitation and support,³⁸ and may mandate counseling for the batterer.³⁹ The criminal statute addresses none of these concerns. The Ohio Civil Protection Order statute is silent regarding the standard of proof that the Court must find to issue a Civil Protection Order. However, eleven (11) states that have prescribed the standard have specified

³² *Id.*

³³ OHIO REV. CODE ANN. § 3113.31(C) (Page 1989): A person may seek relief under this section for himself, or any parent or adult household member may seek relief under this section on behalf of any other family or household member, by filing a petition with the Court.

³⁴ OHIO REV. CODE ANN. § 3113.31(1)(a)(b)(c) (Page 1989) defines domestic violence as one or more of the following acts occurring against a family or household member:

- (a) attempting to cause or recklessly causing bodily injury; (b) placing another person by the threat of force in fear of imminent serious physical harm; (c) committing any acts with respect to a child that would result in the child being an abused child as defined in O.R.C. Section 2151.031.

The criminal statute defines domestic violence as:

- (a) Knowingly causing or attempting to cause physical harm to a family or household member,
- (b) Needlessly causing serious physical harm to a family or household member,
- (c) Knowingly causing a family or household member to believe that the offender will cause imminent physical harm to the family or household member. (OHIO REV. CODE ANN. § 2919.25(A)(B)(C) (Page 1989).

³⁵ OHIO REV. CODE ANN. § 3113.31(D) (Page 1989).

³⁶ *Id.* § 3113.31(E)(1)(b) and (c).

³⁷ Finn, *Statutory Authority in the Use and Enforcement of Civil Protection Orders Against Domestic Abuse*, 23 FAM L. Q. 43, 44 (1989).

³⁸ OHIO REV. CODE ANN. § 3113.31(E)(1)(d) and (e) (Page 1989).

³⁹ *Id.* at § 3113.31(G)(1)(f) <http://akronlawreview/vol24/iss2/6>

a preponderance of evidence.⁴⁰ Finally, the Civil Protection Order is an independent action which does not preclude a criminal action or an additional civil action.

Historically, there has been a trend to favor criminal law over civil law or regulatory alternatives.⁴¹ Increasingly, however, the civil remedy is gaining recognition as an effective alternative and supplement to criminal prosecution.

In Clermont County, Ohio, docketing statistics were culled for the time period January 1st through July 31st in three (3) succeeding years for domestic violence cases. Table #1 presents a visual summary of these statistics.⁴²

TABLE #1

Domestic Violence Cases Docketed
Time Period: January 1 through July 31

YEAR	COUNTY COURT	COMMON PLEAS COURT
1988	174	6
1989	144	53
1990	153	82

Clearly, there is an increase in the number of domestic violence cases being filed, and a substantial increase in the number of cases docketed in Common Pleas Court. The growing number of cases creates a need to examine the problems involved in providing remedies.

PROBLEM AREAS FOR THE COURT

Representation

1. Ex Parte Hearing

The first step in obtaining a civil protection order is filling out and filing the petition for a protection order. It has been pointed out that "[w]hile it is apparent that the General Assembly intended to provide immediate civil relief to the petitioner, it remained silent as to how the petitioner would proceed in a Court that traditionally

⁴⁰ Finn, *supra* note 37, at 49.

⁴¹ Zimring, *Legal Perspectives on Family Violence*, 75 CALIF. L. REV. 521, 536 (1987).

⁴² The Clermont County population was 128,483 according to the 1980 Bureau of Census calculations. The 1990 preliminary census figures indicate that the population is 148,527, but that number is being contested by several jurisdictions.

necessitates the use of attorneys to draft and file pleadings, and to represent parties."⁴³ Twenty-eight (28) states expressly require the Court to assist victims to file pro se.⁴⁴ Ohio has no such requirements.

The victim is required to remain "on call" after filing a petition requesting an ex parte order until the Court can schedule a hearing that same day. Often, the victims are mothers who must either arrange for child care or bring the children with them while they wait for the hearing. Sometimes this necessitates an all day process. Rarely is a victim schooled in pleading a case, and she often recites the same statements that appear on the sworn affidavit before the Judge or Referee. The entire process is unnerving at best for the victim even if the Judge or Referee is sensitive to the domestic violence issues. Often the victim appears insincere and inarticulate. Many states, including Ohio, require the victim to show immediate and present danger of domestic violence⁴⁵ before an ex parte order will be issued. Without counsel, the victim may not be able to meet this standard.

2. The Second Hearing

If any type of protection order authorized by the state is issued by the Court, a full hearing must be scheduled within seven (7) or ten (10) days after the ex parte hearing,⁴⁶ unless no ex parte order was requested. The Judge and Referee are put in a distinctly unjudicial position at the ex parte hearing and even more so at the full hearing if one (1) or both parties are unrepresented. The function of the Court is to listen to the testimony, objectively evaluate the evidence, and make judgments grounded in law. To remain in an objective position, the Judge or Referee must avoid becoming an advocate for one or other of the parties. The dilemma occurs when a party does not know how to present his/her case. It would seem that the reason most parties are unrepresented is because financially they are unable to retain legal counsel.

Ohio Substitute House Bill No. 397 passed by the House on June 21, 1989 begins to address the problem by requiring each legal aid society that receives any financial assistance from the Legal Aid Fund to use a portion of the financial assistance for providing legal advice to victims of domestic violence, including but not limited to, those victims residing in shelters for victims of domestic violence.⁴⁷

Visitation

1. Ex Parte Hearing

The Court has the authority to award rights of visitation at the ex parte

⁴³ Galvin, *Ohio's New Civil Remedies for Victims of Domestic Violence*, 8 OHIO N.U.L. REV. 248, 254 (1981).

⁴⁴ Finn, *supra* note 37, at 49.

⁴⁵ OHIO REV. CODE ANN. § 3113.31(D) (Page 1989).

⁴⁶ OHIO REV. CODE ANN. § 3113.31(D) (Page 1989).

⁴⁷ <http://jideexchange.uakron.edu/akronlawreview/vol24/iss2/6>

⁴⁸ Substitute House Bill No. 397, proposed section 120.54(A)(11), and (C)(1), 120.53(C), and 120.55(E).

hearing.⁴⁸ There seems to be little reason to grant visitation privileges to the respondent, even if the Court has awarded custody of the minor children to the petitioner, since the maximum duration of the ex parte order is ten (10) days.

The Constitutionality of the ex parte order of protection has been upheld on the grounds that it is granted in an emergency situation and is of limited duration.⁴⁹

2. The Second Hearing

Visitation in the context of abuse prevention hearings raises a number of procedural and substantive issues.⁵⁰ There are no criteria set forth in the Ohio statute to guide the Judge or Referee in determining visitation rights. The statute does not provide for counsel and does not require a full evidentiary hearing.

The right to visitation has been characterized by many courts as a basic, natural right which arises by reason of status as a parent.⁵¹

However, visitation is frequently used by batterers as a way of harassing, annoying, and abusing the victim.⁵² Further, the effects of family violence on children cannot be trivialized. Over fifty percent (50%) of men who beat their wives also abuse their children and eighty-seven percent (87%) of batterers threaten to abuse their children.⁵³ Consequently, a child is placed in a dangerous position when, after the woman has left the abuser, visitation occurs between the child and the abuser.⁵⁴

The Ohio Civil Protection Order statute does not limit the discretion of the Judge or Referee to require conditions for visitation. Careful consideration must be given to the visitation orders. Because of the egregiousness of the situation and the potential of further harm, the concern of the Court should be for the safety of the victim and the child(ren). Denial of visitation altogether where there is a possibility of continuing harm to the victim and/or to the children because of visitation is an alternative that must be examined. If visitation is permitted, the conditions for visitation should be stringent and clearly delineated so as to limit the unwillingness of parents to cooperate and to reduce any areas of potential conflict. The reasons for

⁴⁸ OHIO REV. CODE ANN. § 3113.31(E)(1)(d) (Page 1989).

⁴⁹ *Boyle v. Boyle*, 12 Pa. D. & C.3d 767 (C.P. Alleg. 1979); *State ex rel. Williams v. March* 626 S.W.2d 223 (Mo. 1982); *Marquette v. Marquette*, 686 P.2d 990 (Okla. Ct. App. 1984).

⁵⁰ Besseney, *Visitation in the Domestic Relations Context: Problems and Recommendations*, 14 VT. L. REV. 57, 67 (1989). The author identifies procedural issues as those focusing on the process of obtaining an order of protection and substantive issues as those relating to continuing harm to the custodial parent and the minor children after the order of protection has been issued.

⁵¹ L. Karp & C. Karp, *supra* note 13, at 193.

⁵² Crites & Coker, *What Therapists May See that Judges Miss*, 27 JUDGE[s] 9, 42-43 (Spring 1988).

⁵³ Panel 4, *Domestic Violence and Custody - "To Ensure Domestic Tranquility"*, 14 GOLDEN GATE U.L. REV. 623, 633 n. 21 (1984).

⁵⁴ Besseney, *supra* note 50, at 69.

the narrowness of the conditions are threefold: to protect the victim, to protect the child(ren), and to let the abuser and the community know that the Court finds domestic violence reprehensible and will not condone it. This approach is supported by case law in which the child's welfare is of the utmost concern.⁵⁵

CONCLUSION

Advanced societies take intra-family violence seriously.⁵⁶ Only in the last twelve years has this problem become a focus of attention and national concern. The Ohio Legislature has passed one of the most comprehensive set of statutes authorizing Civil Protection Orders to combat domestic violence. Because the language of the statutes is broad, the response of the Court has a profound impact in protecting victims of domestic violence. Judges have the power and authority to implement the legislation. It is critical that Judges and Referees be aware of the severity of the domestic violence problem and make efforts to remain informed about the recent domestic violence legislation. Continuing education as to the realities of all forms of domestic violence will help to remove the shroud of secrecy and break the cycle of violence. Judges and Referees can play a leadership role in enlightening and educating attorneys and the community in general about the severity of the domestic violence issues and the civil legal remedies that exist for victims of domestic violence. The Attorney General's Task Force on Family Violence urges Judges not to underestimate their ability to influence the respondent's behavior.⁵⁷ Judges can communicate a powerful message about the justice system's view of domestic violence within their own courtrooms.⁵⁸

The Ohio Legislature has made a laudatory beginning in responding to the problems of domestic violence. The legislation that provides for Civil Protection Orders is responsive to the immediate needs of the victims and provides a necessary alternative and supplement to criminal legal remedies. However, the legislation cannot achieve its full potential without the careful and responsible utilization by Judges and Referees.

⁵⁵ *Hughes v. Hughes*, 316 Pa. Super. 505, 463 A.2d 478 (1983) (The Court held that visitation rights may be denied if a moral deficiency threatens the welfare of a child); *Capri M.P. v. Ronald O.*, 480 A.2d 669 (Del Fam. Ct. 1984) (parent's visitation rights may be forfeited if the conduct of the parent would have an injurious effect on the child); *In re Constance W.*, 351 Pa. Super. 393, 506 A.2d 405 (1986) (the Court must weigh lesser restrictive alternatives (i.e. supervised visitation) before fully terminating visitation rights); *Conkel v. Conkel*, 31 Ohio App. 3d 169, 509 N.E. 2d 983 (Ohio App. 1987) (egregious conduct by non-custodial parent is grounds for denial of visitation when conduct results in harm to the child).

⁵⁶ Zimring, note 41, at 539.

⁵⁷ ATTORNEY GENERAL'S TASK FORCE ON DOMESTIC VIOLENCE, FINAL REPORT 36 (1984).

⁵⁸ Goolkasian, JUDGING DOMESTIC VIOLENCE, 10 HARV. WOMEN'S L. J. 282 (1987).