

CHAPTER 1

SCOPE AND PURPOSE OF THE DOMESTIC VIOLENCE MANUAL FOR JUDGES

The *Domestic Violence Manual for Judges, 2006*, is a product of the Washington State Supreme Court Gender and Justice Commission. The manual is an updated version of the *Domestic Violence Manual for Judges, 2001*, and is designed for two purposes:

- To serve as a practical reference guide for judges and other court personnel; and
- To serve as a textbook for judicial education in the area of domestic violence.

Although emphasis is given to the role and responsibilities of the judge, some portions of the *Domestic Violence Manual for Judges* will also be of interest to court clerks and others who have administrative responsibilities.

The superior courts and the courts of limited jurisdiction have concurrent jurisdiction in many areas of domestic violence law. Thus, the *Domestic Violence Manual for Judges* is designed for use in either level of court, with any procedural or jurisdictional differences highlighted.

For purposes of this manual, the term *domestic violence* is used in two ways: (1) broadly, as a pattern of assaultive or abusive behavior exercised by one adult intimate against another (see Chapter 2 for explication); and (2) more narrowly, according to Washington statutes. The authors have attempted to clarify when they refer to the behavioral definition and when they are using statutory definitions.

I. CHAPTER OVERVIEW

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| Chapter 1 | Scope and Purpose of the Domestic Violence Manual for Judges
– Includes manual overview, effective date, and authorship. |
| Chapter 2 | Domestic Violence: The What, Why, and Who, as Relevant to Criminal and Civil Court Domestic Violence Cases – Discusses the realities of domestic violence in terms of the current knowledge about behavioral descriptions of battering as a pattern of control, the underlying causes of domestic violence, the characteristics of perpetrators, and the issues related to victims. |
| Chapter 3 | The Legislative Response to Domestic Violence – Provides an overview of the various legal responses to domestic violence. The legislative framework is described, as well as the types of orders that are available for the protection of the domestic violence victim. |
| Chapter 4 | Criminal Pre-Trial Issues – Provides a detailed review of the most common pretrial issues that arise in domestic violence cases. |

Special attention is paid to release orders under [CrR 3.2](#) and to the imposition of no-contact orders under [RCW Chapter 10.99](#). Discovery issues are also discussed.

- Chapter 5** **Criminal Trial Issues** – Covers those trial issues concerned with the presence and treatment of the victim. Those include procedures for compelling the presence of the victim, continuances to secure the presence of the victim, dismissals when a victim fails to appear, substitutes for live testimony when the victim is not present (including deposition testimony), dismissals, and jury issues.
- Chapter 6** **Evidentiary Issues** – Covers selected evidentiary trial issues, such as privileged communications, hearsay, children as witnesses, and expert witnesses including discussion of the battered woman syndrome.
- Chapter 7** **Criminal Case Dispositions** – Discusses case dispositions. Pretrial options, such as diversion and Stipulated Orders of Continuance, are discussed, as well as sentencing under both the Sentencing Reform Act (SRA) and non-SRA procedures, and statutory requirements for domestic violence treatment providers.
- Chapter 8** **Civil Protection Orders** – Provides an overview of the purpose and effectiveness of protection orders, statutes, and case law regarding the court’s role in enforcement of protection orders. The legal responses to domestic violence, legislative framework, and policy issues for the issuance, modification, and extension of protection orders are discussed, as well as full faith and credit.
- Chapter 9** **Domestic Violence Database** – Provides an overview of the domestic violence database and the Judicial Access Browser System (JABS).
- Chapter 10** **Parenting Plans** – Introduces purpose and objectives of parenting plans in domestic violence cases. Included in the section are residential placement and residential time considerations, evidentiary issues, court procedures when issuing orders, and use of mediation.
- Chapter 11** **Child Abuse and Neglect Cases Where Domestic Violence is a Factor** – Discusses the considerations for the court in determining the best interest of the child in domestic violence proceedings, termination of parental rights, and coordination of multiple cases. The new model protocol for a Coordinated Response to Child Maltreatment and Domestic Violence is included.

- Chapter 12** **Dissolution of Marriage** – Reviews Washington dissolution statutes and domestic violence, and discusses property division, maintenance, attorney fees, child support, and bankruptcy issues.
- Chapter 13** **Domestic Violence and Rural Courts** – Distinguishes rural from urban on a Rurality Index; describes minimum access standards for protection orders; identifies unique characteristics of domestic violence victims, abusers, and treatment programs in rural areas; advises on temporary and permanent protection orders; and urges judicial leadership in the area of domestic violence.
- Chapter 14** **Domestic Violence and Tribal Courts** – Describes Native American communities and legal systems in the state; reviews unique characteristics of domestic violence, victims, and batterers in tribal communities; identifies state and federal full faith and credit laws and court rules relating to enforcement of protection orders; describes the typical protection order process among tribes; explains criminal jurisdiction in Indian country; describes child custody and visitation issues.
- Appendix A** **Court Mandated Treatment for Domestic Violence Perpetrators**, by Dr. Anne L. Ganley – Provides an overview of court-mandated treatment for domestic violence offenders based on current psychological and rehabilitation research.
- Appendix B** **Assessment of Domestic Violence** – Contains suggested practices for interviewing, evaluating, and assessing the lethality risk of domestic violence.
- Appendix C** **Federal Domestic Violence Law** – Contains a summary of the Gun Control Act and the Violence Against Women Act.
- Appendix D** **Domestic Violence in the Lesbian, Gay, Bisexual, and Transgender (LGBT) Community** – Contains the National Center for State Courts Winter 2005 *Family Violence Forum* newsletter overview on issues and lists resources for addressing domestic violence in the LGBT communities.
- Appendix E** **Potential Collateral Consequences of a Conviction for Misdemeanor Domestic Assault** – Contains general information on collateral consequences of misdemeanor and felony domestic violence convictions.
- Appendix F** **Domestic Violence: The Overlap Between State Law and Immigration Law** – Presents an overview of cultural and immigration concerns with domestic violence law. Includes

domestic relations law and immigration law; immigration law and criminal proceedings; and issues relating to disclosure of immigration or citizen status.

Appendix G **The Hague Convention on International Child Abduction: A Child’s Return and the Presence of Domestic Violence** – Discusses how the Hague Convention on International Child Abduction, and its enabling statute, have been applied in courts in Washington State and around the country.

Appendix H **Resource Materials on Domestic Violence** – Includes selected domestic violence information links and audio visual library resources.

Appendix I *Domestic Violence Manual for Judges History and Authorship*

Appendix J **Guidelines for Domestic Violence Protection and Antiharrassment Orders – Text of the Benchcard**

II. EFFECTIVE DATE

The statutes, rules, and case law in the *Domestic Violence Manual for Judges, 2006*, were updated by various chapter authors in 2005 and 2006. Some additions were made just prior to printing to include changes from the 2007 Legislative Session and references to reports published in 2007. The reader is advised to check for amendments or other changes in the law after December 2006.

III. PRODUCTION AND AUTHORSHIP

The *Domestic Violence Manual for Judges, 2006*, was produced by the Washington State Supreme Court Gender and Justice Commission. The Commission provides leadership and guidance as to both form and content of this manual.

For more than a decade, Washington State judges, attorneys, law school professors, and students have contributed their time and expertise to review, revise, write, and recommend information to be include in the manual, so that it is a valuable resource for Washington State judicial officers. Chapter 2, Appendix A, and Appendix B were written by Anne L. Ganley, Ph.D. and emphasize social science research in the area of domestic violence, treatment, and assessment.

The *Domestic Violence Manual for Judges, 2006*, is provided by the Gender and Justice Commission to Washington State judicial officers and law libraries. The manual is available on the Washington Courts website at www.courts.wa.gov.

Individual copies may be purchase from the Administrative Office of the Courts, PO Box 41170, Olympia, Washington 98504-1170, (360) 753-3365.

The Commission expresses appreciation to the following individuals who contributed their time and expertise to writing and revising the *Domestic Violence Manual for Judges, 2006*. In particular, the members of the Commission express their appreciation to Gloria Hemmen, Executive Director, who has shepherded this work through all four editions. Without her tireless effort, this Manual would not exist.

The list of individuals who contributed to previous versions of the *Domestic Violence Manual for Judges* is contained in Appendix I.

Domestic Violence Manual for Judges, 2006

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