To: Dr. Bowen

From: Steven Spann

Date: 03/24/2014

Re: Analysis of RCW 26.50.020 for Domestic Violence Clinic

Introduction:

You have asked me to research what arguments exist in the interpretation of Washington state's statutory language regarding protection orders for family and household members of victims of domestic violence. Specifically, you have asked if arguments exist to extend current protection order legislation to include any household and family members the victim wishes to designate in the order.

The relevant statutory language regarding protection orders against domestic violence are codified in Washington's Domestic Violence Prevention Act in RCW 26.50. According to this Act:

> Any person may seek relief under this chapter by filing a petition with a court alleging that the person has been the victim of domestic violence committed by the respondent. The person may petition for relief on behalf of himself or herself and on behalf of minor family or household members.

RCW 26.50.020(1)(a). In addition, the Act defines domestic violence as "(a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; (b) sexual assault of one family or household member by another; or (c) stalking […]." RCW 26.50.010(1).

The primary issues surrounding this part of the statute are in regard to the inclusion of the word "minor" before "family or household members" in RCW 26.50.020, and how much protection should be afforded by that legislation. Simply stated, the extent to which "minor" modifies the "family or household members" phrase is unclear. Courts are divided as to whether the entire phrase should provide protection for minor family members and household members, or whether the phrase should refer to minor family and minor household members. In addition, courts have wrestled with whether the "minor family or household members" must have been victims of domestic violence before someone else can petition on their behalf for a protection order.

In recent years, Washington courts in Division II and Division III have each analyzed the meaning of the "minor family or household members" language and interpreted it to have broad and narrow meaning, respectively. In the Division II case, *Hecker v. Cortinas*, 110 Wn.App. 86, 543 P.3d 50 (2002), the court dealt with the question of whether a husband, Mr. Hecker, could petition for a protection order against his ex-wife, Ms. Cortinas, on behalf of himself and his new wife, Ms. McCord, who were in fear of physical harm from Ms. Cortinas. The Division II Court of Appeals determined that the husband could petition for a protection order on behalf of himself and his new wife because his new wife was his "household member": "[T]he act does not require that McCord herself be a 'family or household member' of Cortinas under RCW 26.50.010(2). [Thus,] the Act authorizes an order to protect McCord as well as Hecker." *Id*. at 53. This interpretation broadly construed the statute, while still remaining within the bounds of the statutory language. However, the Division III Court of Appeals took a different stand on the issue.

In *Nielson ex rel. Crump v. Blanchette*, 149 Wn.App. 111, 201 P.3d 1089, the court was faced with the question of whether the statute permitted a mother, Ms. Neilson, to petition for a protection order against her daughter's boyfriend, Mr. Blanchette, on behalf of her daughter, Ms. Crump. In determining that Ms. Neilson could not petition for a protection order against Mr. Blanchette on behalf of Ms. Crump, the court stated, "[T]he *Hecker* court appears to conclude 'minor' applies only to 'family and not to 'household members' […]. However, 'minor' modifies both 'family' and 'household members,' as 'family and household members' is a statutory term defined by the Act. To the extent that *Hecker* holds otherwise, we decline to follow." *Id*. at 1092.

These two cases and their conflicting interpretations identify that the language of the statute is unclear. These cases also show that Washington courts have had difficulty formulating a cohesive framework by which to protect victims and potential victims of domestic violence, and thereby improve the safety of residents of Washington state. Given the nature and impact of domestic violence on individuals and society as a whole, the Domestic Violence Prevention Act must be assessed to determine how and why, if at all, improvements should be made. In conducting this assessment, the first step will be to analyze the statutory language. Furthermore, if the language is ambiguous, it must be interpreted in light of the legislature's intent and purpose of the statute. Thus, the second step is to analyze the legislative intent, as indicated by the history of the statute's enactment and subsequent amendments. In addition, as the third step, it is important to review and consider similar statutes enacted by other states. Finally, the last step will be to investigate, through empirical studies, the policies for or against a broad or narrow interpretation of this statute, and whether legislative action should be taken to uphold this interpretation. As legislation is designed to solve a problem in society, these empirical studies assist courts and legislatures in understanding and solving these problems.

Statutory Analysis:

Two main concepts exist for interpreting statutes: look to the statutory language for interpretive guidance, and use canons of construction that provide insight into the meaning of the statute. In this analysis, the statutory language includes a definition section, which is helpful in determining the correct meaning. However, canons of construction used in this analysis include the following: interpret the statute such that no word is superfluous, give non-technical words their ordinary meaning, and interpret words and phrases in light of the context of the entire statute. Furthermore, while these canons can independently provide insight into the meaning of a text, a global, or comprehensive, strategy may be required to assess the statute in light of all pertinent interpretive strategies and understandings.

While proponents of a narrow interpretation of the statute suggest that “minor” applies to both “family” and “household members” because “family or household member” is defined in the definition section as a single, distinct phrase, the Domestic Violence Clinic can argue that limiting the “family or household members” protected by the statute would preclude protection to many of the individuals enumerated in the definition, and such a result would be absurd and counter-productive. Accordingly, RCW 26.50.020 must be assessed in light of the meaning of “family or household members,” which is defined as follows:

> “Family or household members" means spouses, domestic partners, former spouses, former domestic partners, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years

> of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

RCW 26.50.010(2)

Unfortunately, this definition does not provide much insight into the dubious "minor family or household member" phrase. However, while a "*minor* family or *minor* household member" interpretation could be a possible meaning, and one that would essentially limit protection to any biological or legal children or step-children, and non-family minors living with the petitioner, it is unlikely that legislators would use a previously defined phrase, which referred to an extensive group of individuals, when such legislators intended to refer only to a select few individuals.

A second interpretive tool is that legislators put words into the statute to convey their meaning, and words that do not convey the intended meaning are not in the statute. Thus, simply stated, the Legislature did not put superfluous words into the statute. As a result, it could be argued that a "minor family members and minor household members" interpretation would provide necessary protection for at least some of the vulnerable individuals in a domestic violence situation - the victim and children who are members of the victim's family, and children who live with the victim. In addition, proponents of a narrow reading could argue, if the Legislature had wanted to afford protection to all family and household members, it would have left the word "minor" out of the statute.

Yet, the very terminology used supports a broad interpretation. In this regard, a third maxim used by courts – that non-technical words or phrases in a statute should be given their ordinary meaning – confirms this argument. The ordinary meaning of a word could be determined through the use of a dictionary. "Family" is defined as "A group of persons connected by blood, by affinity, or by law […]; [a] group consisting of parents and their children [; a] group of persons who live together and have a shared commitment to a domestic relationship." Black's Law Dictionary (9th ed. 2009). Also, "household" means "A family living together. […] A group of people who dwell under the same roof." Id. Accordingly, families are ordinarily considered to be groups of people who are connected by blood, commitment, or law; household members ordinarily include people who live together, whether or not they are family. In this regard, the ambiguous language could be interpreted as meaning minor individuals who are connected by blood, affinity, or law to the victim, or minors who are living with the victim. Yet, because of the meaning of "family" and "household," it is also possible to interpret the statute as protecting minor family members, whether or not they live with the victim, and anyone else who lives with the victim. In this manner, the legislation would afford coverage to those traditionally protected individuals – the victim and the victim's children – but also to anyone with whom the victim lives, and who could be targeted by the abuser.

Likewise, the statutory context of Washington's Domestic Violence Prevention Act indicates a broader reading of "minor family or household members" is preferred. In this regard, a canon of construction used by courts, and that helps to clarify the meaning of the statutory language, is that ambiguous statutes should be read in light of the surrounding language of the statute as a whole. RCW 26.50.060 affirms that "[T]he court may provide relief as follows: […] (h) Restrain the respondent from having any contact with the victim of domestic violence or the

victim's children or members of the victim's household." Also, subsection (i) uses the same "victim's children, or members of the victim's household" phrase. Use of this phrase indicates that the "minor family or household members" language referred to in RCW 26.50.020, includes the victim's minor family members who live anywhere and individuals who live with the victim. Such a phrase also shows that "household members" should not be limited to minors, and it illuminates the added protection authorized under this statute – protection to all household members living with the victim.

Furthermore, RCW 26.50.060(2) states that "if the petitioner has petitioned for relief […] on behalf of the petitioner's family or household members or minor children, […] the court may either grant relief for a fixed period or enter a permanent order of protection." This section indicates that the legislation grants protection to "the petitioner's family or household members or minor children." As a result, given the statutory context in which the ambiguous section must be read, "minor family or household members" should not limit protection to minor family members.

Thus far, the canons of statutory construction taken individually have afforded pertinent, yet limited insight into the statute. A broader understanding of the language is needed. Accordingly, the canons must be utilized in a more global, or comprehensive, strategy, to shed light on the most realistic assessment of the statute's meaning. Thus, while a limited interpretation of RCW 26.50.020 would provide protection to only minor family members and possibly only minor household members, the Legislature's words in other portions of the same Act afford protection to not only the victim's children, but also the victim's family and the victim's household members. Thus on a comprehensive scale, RCW 26.50.020 should not be construed to reduce protection where protection is, in fact, due.

As a result of this assessment of the language, it is apparent that the statute is ambiguous as to the outer bounds of domestic violence protection. Yet, it is clear that the Legislature wrote the Act to grant such protection, where necessary, to more than just the victim and the victim's children. Despite the ambiguity in the language, the Legislature's use of "family or household members" in other areas of the Act shows that courts should allow victims to petition on behalf of themselves, their children, their family members, and their household members.

Legislative Intent:

While compelling arguments exist for both the narrow reading and the broad reading of the statute based on a statutory language analysis, it is necessary to investigate legislators' intent in writing the statue. The history behind the enactment of the statute provides insight into the intent of the legislation.

In Washington's Domestic Violence Prevention Act, the Legislature intended to prevent domestic violence and improve the prevention process; this intent readily incorporates a broad reading of the "minor family or household members" protection. In this regard, the Legislature states that the intent of the statute is "to improve the lives of persons who suffer from the adverse effects of domestic violence and to require reasonable, coordinated measures to prevent domestic violence from occurring." 2010 Wash. Legis. Serv. Ch. 274 (S.H.B. 2777) (West). One of the means used to accomplish this intended task is to increase "uniformity in the decision-making processes at public and private agencies that address domestic violence by reducing inconsistencies and duplications allowing domestic violence victims to achieve safety and stability in their lives." Thus, the focus of the legislation is on preventing domestic violence and improving the overall efficiency of the prevention process. In regard to the "minor family or

household members" phrase, by allowing victims to petition on behalf of those people who are most likely to "suffer from the adverse effects of domestic violence," including people who are family or household members of the victim – courts will most adequately promote the legislative intent.

Furthermore, legislative amendments of the statue point toward the Legislature's intent to grant more protection, rather than less, to individuals in domestic violence situations. After the 2002, Division II Court of Appeals in *Hecker v. Cortinas*, 110 Wn.App. 86, 543 P.3d 50, held that the statute permitted a husband to petition for protection against his ex-wife on behalf of his new wife, the Legislature did not amend the statute. While this absence of amendments does not explicitly show that the court's interpretation was correct, it does show that the court did not go beyond what the Legislature intended by the statute. However, after the 2009, Division III Court of Appeals addressed *Neilson ex rel. Crump v. Blanchette*, 149 Wn.App. 111, 201 P.3d 1089, in its narrow interpretation of RCW 26.50.020, the Legislature amended the language of the statute to increase protection coverage.

The 2009 statutory language promoted the understanding that an individual could not petition on behalf of his or her child against the child's abusive boyfriend or girlfriend, if the child was under the age of 16. In what appeared to be a response to this decision, the Legislature, in the year after *Crump*, amended RCW 26.50.020 to state that an individual could petition on behalf of his or her child against the child's boyfriend or girlfriend if the child was 13 years old or older. 2010 Wash. Legis. Serv. Ch. 274 (S.H.B. 2777) (West). This amendment increased the number of people protected through the petition of another individual, indicated that the *Crump* court had not granted sufficient protection where protection was due, and displayed the Legislature's commitment to protecting those subjected to domestic violence situations.

A statutory language and legislative history analysis of this unclear statute shows that domestic violence protection granted by the language and Legislators points to a more substantial legal force against domestic violence in Washington. Accordingly, the word "minor" emphasizes the Legislature's intent to provide protection to children in domestic violence situation. However, interpreting the statute to limit protection to only the victim-petitioner and children in such situations would be contrary to the expansive definition of "family or household members." Furthermore, other sections of the Act expressly authorize individuals to petition on behalf of family members and household members, in addition to the petitioner's children. As a result, based on the language and legislative history of RCW 26.50.020, the phrase, "minor family or household members," should be interpreted broadly.

State Trends

While an examination of the language and legislative history of Washington's Domestic Violence Prevention Act does provide some insight into the purpose and meaning of the statute, other states' statutes on domestic violence protection orders shows the context in which Washington's domestic violence legislation operates. In this regard, the Domestic Violence Clinic will rely on other states' statutes to argue three main points. First, reading Washington's domestic violence statute broadly is consistent with the articulated goals of the statute, as well as the state's progressive stance on this issue. Second, Washington's Domestic Violence Prevention Act, like other less ambiguous statutes, permits the courts to exercise discretion in issuing protection orders; this concept also is consistent with a broad reading of the statute. Third, unlike some states' statutes that are unambiguous, yet narrow, Washington's statute is ambiguous but allows broad protection.

Washington's Domestic Violence Prevention Act is expressly focused on "improv[ing] the lives of persons who suffer from the adverse effects of domestic violence and [requiring] reasonable, coordinated measures to prevent domestic violence from occurring." 2010 Wash. Legis. Serv. Ch. 274 (S.H.B. 2777) (West). This articulated goal combined with Washington's progressive approach to social and political issues, highlights the value of reading the statute broadly to ensure more protection rather than less.

One of Washington's neighboring states – Oregon – which is traditionally a companion in progressive ideologies, serves as a valuable example of the dangers of limited protections. Oregon's domestic violence protection order statute unambiguously states that courts shall grant protection orders only for the victim of domestic violence and children in the custody of the victim-petitioner. Or. Rev. Stat. § 107.718. Yet, it appears that this statute has not afforded necessary protection. According to a 2011 article in The Oregonian, "While the number of homicides has been dropping nationally, the number of domestic-violence-related homicides in Oregon has bucked the trend. State figures show they've remained steady since 2003, with an average of 24 a year [...]." Maxine Bernstein, Despite dropping crime rate, domestic homicides in Oregon remain steady, The Oregonian (Jan. 7. 2001), http://www.oregonlive.com/news/index.ssf/2011/01/despite_dropping_crime_rate_do.html. Nevertheless, in the following year, 2012, Oregon had a total of 38 domestic violence-related homicides; an increase from the already upsetting numbers (Oregon Coalition Against Domestic & Sexual Violence, Fatal Domestic Violence in Oregon: Demographics Related to Victims, Perpetrators, and Incidents, 2012 Report). The limited protection afforded by Oregon's domestic violence statute has evidently not granted the needed protections. In contrast, Washington courts

should read the language of the Domestic Violence Prevention Act to afford broad interpretation and increased safety in Washington.

Proponents of a narrow interpretation of the statute may argue that, even with a less restrictive statute than Oregon's statute, Washington still had a domestic violence-related fatality rate of 54 in 2012. Washington State Coalition Against Domestic Violence, 2012 Domestic Violence Fatalities in Washington State, 2013. As a result, a narrower reading may, in fact, reduce the number of fatalities. Such an argument does not account for differences between Washington and Oregon. For example, in 2012, Washington's population was approximately 6.9 million, while Oregon's was only around 3.9 million. U.S. Census Bureau, Annual Estimates of the Resident Population for the United States, Regions, States, and Puerto Rico: April 1, 2010 to July 1, 2012, 2012. Based on these numbers, Washington has approximately one domestic violence-related fatality for every 128,000 residents, as compared to Oregon's one domestic violence-related fatality for every 103,000 residents. Thus, while Washington is still experiencing too many such fatalities, it does have a lower occurrence rate than Oregon. Therefore, Washington courts should strive to reduce this rate even more by interpreting the statute broadly.

In addition, Washington's domestic violence statute is sufficiently clear to indicate that courts have discretion in issuing protection orders; this concept is consistent with a broad interpretation of the statute. Washington courts are authorized to grant protection orders to family and household members beyond just the victim and the victim's child. Alabama's statute provides similar discretionary authority to courts. In Alabama, a person may petition for themselves and on behalf of their minor children and certain individuals with disabilities; yet the court has authority to grant protection orders for "the [petitioner] or minor children, and any

other person designated by the court." Ala. Code § 30-5-7(b)(1) (2010). This broad protection, which formerly used "and any designated family or household members" language was expanded in 2010, to include the current "and any other person designated by the court" language. Ala. Code § 30-5-7 (1995); Ala. Code §30-5-7 (2010). Thus, Alabama legislators wanted to not only permit a broad application of the statute, but also give Alabama courts distinct discretionary authority in this application. Such discretionary authority is also present in Washington's statute, and Washington courts should pursue a broad application of the statute through that authority.

Finally, while some states, utilize an unambiguous, narrow statute, Washington legislators enacted a statute that is somewhat ambiguous, but not narrow, allowing for a more broad interpretation and application of the statute. Minnesota's domestic violence protection order statute states that "A petition for relief under this section may be made by any family or household member personally or by a family or household member, [or] guardian […] on behalf of minor family or household members." Minn. Stat. § 518B.01, subd. 4(a) (2013). However, according to the Minnesota Supreme Court, the statute only applies to victims of domestic violence. *Schmidt ex rel. P.M.S. v. Coons*, 818 N.W.2d 523 (2012) (holding that "When the Act is viewed as a whole, it is clear that [a protection order] is available only if the petitioner shows the respondent committed domestic abuse against the petitioner or the person on whose behalf the petition is brought." *Id*. at 527). As a result, this statute is unambiguous, yet narrow.

Washington's statute, however, while written in an unclear manner, is not written in a narrow manner. Its purpose looks to grant more protection rather than less, it grants considerable discretion to courts, and when courts have limited the protection granted through the statute, the Legislature has amended the statute to protect a broader range of individuals affected by

domestic violence. Thus, Washington courts should interpret the statute broadly such that family and household members, in addition to minor children, may be protected through the petition of individual imperiled by domestic violence.

Policy

Since legislation is aimed at resolving problems in society, it is important to use fact-based statistics and empirical studies to develop an understanding of that problem, such that a successful solution can be crafted. These empirical studies display the nature and scope of domestic violence in Washington, the United States, and other parts of the world. The studies also show who is most vulnerable to domestic violence and allow legislators to develop a protection system by which to prevent abuse.

To begin, recall that the question under analysis is whether, in RCW 26.50.020, the word "minor" modifies "family" and "household members," or whether it modifies only "family." Depending on the way this section is interpreted, courts will conduct a broader or narrower application of the statute. In this regard, the Domestic Violence Clinic will argue two primary points to demonstrate why a broader interpretation is necessary. On the other hand, the opponents will argue that a narrower interpretation, in which "minor" modifies "family" and "household members", is necessary because of the potential for abuse of protection orders.

The Domestic Violence clinic will argue two points to support its proposition that the consequences of a broader interpretation of the statute demand that the courts view "minor" as modifying only "family." First, states can dramatically reduce the cost of domestic violence as a social and health problem by taking a proactive, rather than reactive, approach to the problem. Wider use of domestic violence protection orders is one such proactive tool. Second, national

trends in family relationships require protection of a family entity that is more varied than the traditional, immediate family.

Domestic violence has an enormous affect on individual health and society in the United States. Every year, $4.1 billion is spent in medical and mental health services as a direct result of domestic violence. National Coalition Against Domestic Violence, Domestic Violence Facts, 1 2007. Also, in Washington alone, in 2012, 54 individuals died in domestic violence-related incidents. The victims included partners or ex-partners, children, friends, relatives, coworkers, and bystanders. Washington State Coalition Against Domestic Violence, 2012 Domestic Violence Fatalities in Washington State, 2013. These statistics graphically illustrate that while partners or ex-partners are the most frequent victims of domestic violence, other individuals are subject to such abuse, and society as a whole is subject to the costs of domestic violence.

In developing effective, proactive, protection order legislation, domestic violence must be addressed with an understanding of the abuser. In their profound book, *When Men Batter Women*, Neil Jacobson and John Gottman (1998) analyze the nature and effects of domestic violence. The authors explain that domestic violence "is always accompanied by emotional abuse, is often accompanied by injury, and is virtually always associated with fear and even terror on the part of the [victim]." *Id*. at 25.

Accordingly, when Jacobson and Gottman conducted research into the epidemic that is domestic violence, they discovered that the abusers generally fell into one of two categories of abusive personality: Pit bulls and Cobras. Cobra abusers are largely characterized by a hedonistic and impulsive personality, and they abuse "to stop [their victims] from interfering with the Cobra's need to get what they want when they want it." *Id*. at 27. In addition, they often have a history of alcohol and drug abuse. On the other hand, Pit bulls "are most likely to confine their

violence to family members, especially their wives." *Id*. at 38. Thus, while Pit Bulls are driven by a fear of abandonment and attempt to dominate their partners in any way they can, Cobras are motivated by a desire to get immediate gratification and are more likely to have criminal record. However, both are capable of "severe assault and murder." *Id*. at 38. Given that abusers are likely to use violence, control, and power as their key tools of abuse, then, a narrow reading of RCW 26.50.020 allowing protection of only the current victim could, in fact, refocus the abuser's attention on other individuals in the household with whom the victim is close.

Furthermore, in regard to family dynamics, the Domestic Violence Clinic will argue that the households in the United States are increasingly multigenerational, including not only children and parents, but also grandparents, and potentially others. The United States Census Bureau reported that, in 2000, almost 4 million U.S. households contained three or more generations. U.S. Census Bureau, Census 2000 PHC-T-17: Multigenerational Households for the United States, States, and for Puerto Rico: 2000, (Sept. 7, 2001), http://www.census.gov/population/www/cen2000/briefs/phc-t17/tables/phc-t17.pdf. Between 2009 and 2011, however, there were around 4.3 million multigenerational U.S. households, roughly 5.6% of all households in the United States. Daphne A. Lofquist, Multigenerational Households: 2009–2011 American Community Survey Briefs, U.S. Census Bureau, 1 (October 2012), http://www.census.gov/prod/2012pubs/acsbr11-03.pdf. In the same period, multigenerational households constituted approximately 4.3% of households in Washington state (*Id*. at 3); this number is up from the approximately 2.5% of households in 2000. U.S. Census Bureau, 2001.

The increasingly multigenerational nature of families results in domestic violence risk to more people. Research indicates that where households are larger, the potential for violence

against more members is also higher. Wendi Goodlin and Christopher Dunn, Three Patterns of Domestic Violence in Households: Single Victimization, Repeat Victimization, and Co-Occurring Victimization, 25 J. Fam. Viol. 107-22, 117 (2009). To complicate the situation, victims, as well as their family or household members, are not necessarily able to seek out their own protection orders for a number of reasons, including linguistic barriers (Anahid Kulwicki, Barbara Aswad, Talita Carmona, and Suha Ballout, Barriers in the Utilization of Domestic Violence Services Among Arab Immigrant Women: Perceptions of Professionals, Service Providers & Community Leaders, 25 J. Fam. Viol. 727-35, 729 (2010) (reporting that language barriers prevent non-English speaking individuals from obtaining legal and social services)); economic barriers (Mandy Burton, Third Party Applications for Protection Orders in England and Wales: Service Providers Views on Implementing Section 60 of the Family Law Act of 1996, 25(2) J. Soc. Welfare and Fam. L. 137-50, 140 (2003)); or fear of physical or social ramifications (*Id*.). Likewise, these individuals are often financially dependent on their partners (Kulwicki et al, at 729); and this factor, combined with the victim's legal ignorance of their rights (Mary Ann Dutton, Nawal Ammar, Leslye Orloff, Darci Terrell, Use and Outcomes of Protection Orders by Battered Immigrant Women, Cosmos Corporation Technical Report, for U.S. Dept. of Justice, iv (2006) demands that wider access be more easily available.

In response, proponents of a narrow interpretation would argue two key points. First, the number of domestic violence incidents that include victims outside of the partner-partner relationship is small. Second, protection orders can be used by domestic violence perpetrators against their victims. These points essentially focus on the potential risks of a broad interpretation.

Studies indicate that only 5% of households experience domestic violence that involves a family member in addition to partner-partner domestic violence. Proponents of a narrow reading would suggest that this data, while it does show such domestic violence occurs, does not indicate that the risks and costs to individuals and society are large enough to require more broad protection against domestic violence. However, this argument fails to recognize that the domestic violence is widely underreported. Only around "one-quarter of all physical assaults, one-fifth of all rapes, and one-half of all stalkings perpetuated against females by intimate partners are reported to the police." National Coalition Against Domestic Violence, Domestic Violence Facts, 2 (2007). Thus, the 5% co-occurrence domestic violence rate is likely not the complete picture of co-occurrence domestic violence in the United States. In addition, even if the rate is 5%, this number is still too high, and it should be eliminated so that these family and household members no longer face fear, pain, and even death at the hands of abusers.

Proponents of a narrow interpretation could also argue that, since protection orders can be used by perpetrators against their victims as another way of controlling the victims (David H. Taylor, Maria V. Stoilkov, Daniel J. Greco, Ex Parte Domestic Violence Orders of Protection: How Easing Access to Judicial Process has Eased the Possibility for Abuse of the Process, 18 Kan. J.L. & Pub. Pol'y 83-134, 87, (2008)), the risk of such an abuse of the protection order system offsets any benefits obtained from expanding the statutes coverage. This argument does not address the existing need for increased protection; it only states that increased protection would enable abusers to continue their abuse through a different medium. However, while this form of abuse is possible, the need for protection against other types of abuse outweighs the risk of abuse of the system.

Conclusion:

Based on the above analysis, a broad interpretation of RCW 26.50.020 is both appropriate and necessary. The Domestic Violence Clinic, in arguing for a broad interpretation of Washington's Domestic Violence Prevention Act, will have significant support from the statutory language and legislative history. Washington's legislature intended to afford protection to those who "suffer from the adverse effects of domestic violence," and granted discretionary authority to courts to issue protection orders to the domestic violence victim, as well as the victim's family, household members, and minor children. This assessment of the statute is consistent with a broad interpretation of the "minor family or household members" language. Furthermore, other states' domestic violence statutes, as well as policies derived from domestic violence research, indicate that a broader reading of Washington's statute is necessary. Washington's statute is ambiguous, yet not as restrictive as other states' statutes; this concept also supports a broader interpretation. As a result, the Washington Division I Court, as well as the Washington Supreme Court, will likely conclude that a broad interpretation of "minor family or household members" should prevail, thereby allowing the victim of domestic violence to petition for a protection order on behalf of his or her children, family, and household members.