

# TEEN DATING VIOLENCE: THE LIMITS OF THE LAW

By D. Kelly Weisberg

Professor of Law, Hastings College of the Law

AALS Workshop on Shifting Foundations: Family Law's Response to Changing Families

June 22-24, 2015, Orlando, FL

© D. Kelly Weisberg, Work in Progress

Teen dating violence (TDV) constitutes the first manifestation of the scourge of adult partner violence. Teen dating violence began attracting scholarly attention by social scientists in the early 1980s.<sup>1</sup> Yet, it took another twenty years to witness the emergence of law reform. Currently, two legal remedies address teen dating violence: (1) laws authorizing civil protection orders for teen victims and (2) laws providing for teen dating violence prevention education in the schools. This paper will evaluate these legal remedies, highlight their shortcomings, and propose avenues for law reform.

## Scope of the Problem

Teen dating violence consists of physical, sexual, and psychological violence that occurs in a teen dating relationship.<sup>2</sup> At least 10 percent of high school students suffer physical violence at the hands of a dating partner.<sup>3</sup> Other estimates of teen victims range as high as 30 percent.<sup>4</sup>

Physical violence includes a range of intentional physical acts, such as being scratched, slapped, pushed, slammed against a wall, bitten, choked, burned, beaten, and assaulted with a weapon.<sup>5</sup> Prevalence rates double if sexual victimization (rape, sexual assault) is included.<sup>6</sup> Even higher prevalence rates exist for psychological abuse.<sup>7</sup> Electronic harassment is especially common, when dating partners constantly monitor their teenage dating partners by means of text

---

<sup>1</sup> For the groundbreaking study, see June Henton et al., *Romance and Violence in Dating Relationships*, 4 J. Fam. Issues 467 (1983).

<sup>2</sup> Ctrs. for Disease Control & Prevention, *Injury Ctr.: Violence Prevention, Teen Dating Violence* 1 (2012), [http://www.cdc.gov/ViolencePrevention/intimatepartnerviolence/teen\\_dating\\_violence.html](http://www.cdc.gov/ViolencePrevention/intimatepartnerviolence/teen_dating_violence.html).

<sup>3</sup> CDC, *Youth Risk Study 2011*, supra note 2. The rate of teenage violence among high school students has remained unchanged from 1999-2011. Id.

<sup>4</sup> American Psychological Association, *Press Release, One in Three* (reporting results of research presented at annual meeting by Michele Ybarra et al., *National Rates of Adolescent Physical, Psychological, and Sexual Teen-Dating Violence*," based on national study of 1058 adolescents aged 14-20), <http://www.apa.org/news/press/releases/2013/07/dating-violence.aspx>.

<sup>5</sup> Priscilla Offenhauer & Alice Buchalter, Dep't of Justice, Nat'l Inst. of Justice, *Teen Dating Violence: A Literature Review and Annotated Bibliography* 3 (2011). The CDC definition is more limited, including hitting, slapping and being otherwise "physically hurt on purpose by [a] boyfriend or girlfriend." Danice K. Eaton et al., Ctrs. for Disease Control & Prevention, *Youth Risk Behavior Surveillance--United States, 61 Morbidity & Mortality Wkly. Rep.* 1, 66 (2011) [hereinafter CDC, *Youth Risk Study 2011*] (based on a sample of 15,415 youth in grades nine to twelve).

<sup>6</sup> Jay Silverman et al., *Dating Violence Against Adolescent Girls and Associated Substance Use, Unhealthy Weight Control, Sexual Risk Behavior, Pregnancy, and Suicidality*, 286 JAMA 572, 574 (2001) (reporting that one in five female high school students reports physical and/or sexual violence from dating partners).

<sup>7</sup> Carolyn T. Halpern et al., *Partner Violence Among Adolescents in Opposite-Sex Romantic Relationships: Findings from the National Longitudinal Study of Adolescent Health*, 91 Am. J. Pub. Health 1679 (2001) (reporting that one in five adolescents reports only psychological abuse, compared to one in ten youth who report physical violence) (sample = 7500 youth in seventh to twelfth grade). Psychological abuse includes insults, humiliation, disrespectful treatment in front of others, threatening behavior, and emotional manipulation. Offenhauer & Buchalter, supra note 5, at 3-4.

messages and cell phone calls.<sup>8</sup> Both teen boys and girls are victims.<sup>9</sup> Dating violence occurs in adolescent same-sex relationships as well as opposite-sex relationships.<sup>10</sup>

Teen dating violence starts as early as middle school. Among teens aged thirteen to fourteen, one in five reports that they know friends and peers who have been kicked, hit, slapped, or punched by girlfriends or boyfriends.<sup>11</sup> Even younger teens report witnessing dating abuse: more than one in three seventh graders have observed physical violence between dating partners.<sup>12</sup>

Today's victims of teen dating violence become tomorrow's adult victims. Dating violence escalates throughout adolescence.<sup>13</sup> A nationally representative sample of almost 6000 adolescents between the ages of 12 and 18 found that teens who had experienced dating violence were two to three times more likely to be involved in violent relationships as young adults.<sup>14</sup>

Dating violence has severe physical consequences for some teen victims, resulting in serious injuries<sup>15</sup> and homicide. Homicides occur with alarming frequency, even among the youngest victims. Females ages sixteen to nineteen are victims in more than one-fifth of all homicides committed by an intimate partner.<sup>16</sup> An even more chilling fact is that younger girls, ages twelve to fifteen, are victims in 10% of intimate partner homicides.<sup>17</sup>

---

<sup>8</sup> Peter Picard, Liz Claiborne, Inc., Tech Abuse in Teen Relationships Study 8 (2007) (sample = 615 youth, age thirteen to eighteen) [hereinafter Picard, Tech Abuse] (reporting that one in three teens in dating relationships has been text messaged ten, twenty, thirty, or more times per hour by a partner to monitor his/her whereabouts and his/her companions), available at <http://www.loveisrespect.org/wp-content/uploads/2009/03/liz-claiborne-2007-tech-relationship-abuse.pdf>. See also Andrew King-Ries, Teens, Technology, and Cyberstalking: The Domestic Violence Wave of the Future?, 20 Tex. J. Women & L. 131, 152 (2011).

<sup>9</sup> Amy E. Bonomi et al., Dating Violence Across the Teen Years: Abuse Frequency, Number of Abusive Partners, and Age at First Occurrence, BMC Public Health, 12:637 (2012), <http://www.biomedcentral.com/1471-2458/12/637>

<sup>10</sup> Carolyn T. Halpern, Prevalence of Partner Violence in Same-Sex Romantic and Sexual Relationships in a National Sample of Adolescents, 35 J. Adolescent Health 124, 124 (2004) (reporting that about one in ten adolescents in same-sex relationships reports physical victimization).

<sup>11</sup> See Liz Claiborne, Inc., Teenage Research Unlimited (TRU), Tween and Teen Dating Violence and Abuse Study 10 (2008) [hereinafter TRU, Tween/Teen Study] (surveying 1043 youth, age eleven to fourteen, and 626 teens, ages fifteen to eighteen), <http://www.loveisrespect.org/wp-content/uploads/2008/07/tru-tween-teen-study-feb-081.pdf>.

<sup>12</sup> Robert Wood Johnson Found. & Blue Cross of Cal. Found, Prevention in Middle School Matters: A Summary of Findings of Teen Dating Violence Behaviors and Associated Risk Factors Among 7th-Grade Students: Executive Summary 2, 4 (2012) [hereinafter Johnson Found., Middle School Matters] (sample = 1430 youth, mean age twelve), available at [http://www.rwjf.org/content/dam/farm/reports/surveys\\_and\\_polls/2011/rwjf72533](http://www.rwjf.org/content/dam/farm/reports/surveys_and_polls/2011/rwjf72533).

<sup>13</sup> Dating violence is higher among eleventh- and twelfth-grade girls than ninth-grade girls. CDC, Youth Risk Study 2011, supra note 2, at 10 (reporting the prevalence of TDV for ninth-grade girls at 7.6%, increasing to 9.3% for eleventh-grade girls and 10.3% for twelfth-grade girls).

<sup>14</sup> Deineria Exner-Cortens et al., Longitudinal Associations Between Teen Dating Violence Victimization and Adverse Health Outcomes, Pediatrics 131:1-8 (Aug. 10, 1012).[replace with pin cite]. Nearly one in three college women report that they have experienced an abusive dating relationship. Knowledge Networks & Liz Claiborne, Inc., 2001 College Dating Violence and Abuse Poll 11, 12 (June 9, 2011), available at <http://www.breakthecycle.org/dating-violence-research/college-dating-violence-and-abuse-poll>

<sup>15</sup> Callie Marie Rennison, Bureau of Justice Statistics, Special Report, Intimate Partner Violence and Age of Victim, 1993-1998 7 (Table 6) (2001) (reporting that 5.5% of females ages twelve to fifteen are seriously injured).

<sup>16</sup> Id. at 3 (Table 3).

<sup>17</sup> Id.

## II. Legal Remedies

Legal concern about the problem of TDV has sparked two law reform movements. The first law reform movement focused on expanding teens' access to civil protection orders. The second law reform movement authorized states to create programs for teen dating violence prevention education in the nation's schools. These statutes and their shortcomings are explored below.

### A. Civil Protection Orders

#### 1. Statutes and Their Shortcomings

Civil protection orders are an important weapon in the legal arsenal against abusers. A civil order of protection is a form of injunctive relief that provides immediate protection to a victim (the "petitioner") by ordering another person (the "respondent") either to do or refrain from doing certain acts. For example, a protection order may prohibit a person from threatening or harming the petitioner (or members of her family); entering the petitioner's home; coming within a certain distance of the petitioner or coming to her home, work, or school; contacting the petitioner (directly or indirectly, in person, by phone, email, texting, mail, or through a third party); purchasing or owning firearms; or prohibiting the transfer or disposal of property, among other acts.

All states currently provide for civil protection orders for victims of domestic violence. Restraining orders for *adult* victims of intimate partner violence were first authorized by the Pennsylvania legislature in 1976.<sup>18</sup> Although state laws have made protective orders available to adults for more than 30 years, many state laws still reflect restrictions that limit their availability to teen victims. These restrictions are summarized below.

First, many states fail to protect teen victims because their restraining order laws do not apply to persons who are merely in "dating relationships" as opposed to spousal relationships, cohabitant relationships, parental relationships, or relationships involving "family or household members." State laws have gradually been expanding the category of dating relationships. In 1993, only 12 states authorized orders of protection for persons in dating relationships.<sup>19</sup> In the past two decades, a law reform movement led to statutory revisions that largely corrected this omission. Persons in "dating relationships" can now access protection orders in 41 states and the District of Columbia.<sup>20</sup> In the remaining states, however, protective orders are not available to those persons in "dating relationships." This omission thereby precludes access by teen victims who are not covered by the other categories of eligible victims.

Even if state statutes do apply explicitly to persons in "dating relationships," the definitions of these relationships in some state statutes may preclude their application to teen petitioners. For example, some statutes require that the qualifying dating relationship involves

---

<sup>18</sup> Andrew Klein et al. & NIJ, Final Report, An Exploratory Study of Juvenile Orders of Protection as a Remedy for Dating Violence 22, April 29, 2013.

<sup>19</sup> Catherine F. Klein & Leslye E. Orloff, Providing Legal Protection for Battered Women: An Analysis of State Statutes and Case Law, 21 Hofstra L. Rev. 801, 835 (1993).

<sup>20</sup> Break the Cycle, 2010 State Law Report Cards: A National Survey of Teen Dating Violence Laws 7 (2010).

“frequent” associations, “sexual involvement,” an “engagement,” or a “romantic involvement” over a “continuous period of time.”<sup>21</sup> These limitations mean that some teenage victims whose relationships lack the essential characteristics of frequency, continuity, sexual involvement, or an engagement may not be eligible for an order of protection.

Second, a minority of states do not provide explicit statutory authority for minors to access protection orders. Youth are eligible to petition explicitly (either as “minors” or as persons in “dating relationships”) in 45 states and the District of Columbia. The remaining state laws, however, pose barriers to minors’ access. One state (Missouri) explicitly precludes minors from access to protection orders.<sup>22</sup> Statutes in four remaining states (North Dakota, South Dakota, Ohio and Wyoming) fail to specify whether minors are eligible to receive protection orders.<sup>23</sup> This omission leads to some ambiguity as to whether courts in these states will interpret the eligibility provisions liberally to apply to teen victims.

Third, many states do not authorize minors to petition for protection orders *on their own behalf*. Only nine states and the District of Columbia explicitly confer the right to minors to petition for themselves.<sup>24</sup> In fact, nine other states prohibit minors, themselves, from petitioning for protection orders. In the remaining states, statutes are unclear about minors’ right to petition on their own behalf. This omission means that minors who want protection orders must depend on an adult (such as a parent) to petition for them. Given that many teens prefer not to disclose to their parents that they are engaged in an intimate relationship or that they are in an abusive relationship, this limitation puts many teens at risk.

Fourth, some state laws preclude the issuance of protection orders against *abusers who are minors*. Only fifteen state statutes specifically provide that a teen victim can petition for an order of protection against a respondent who is a minor. In contrast, five states specifically prohibit victims from being able to obtain protection orders if the abuser is a minor. In the majority of states, statutes fail to specify whether protection orders are available in this circumstance.<sup>25</sup> Again, this omission creates an ambiguity that puts teens at risk.

Fifth, some state laws preclude teens from being able to access protection orders if the victims are involved in a *same-sex relationship with their abuser*. In some states, laws specifically limit protection orders only to those individuals engaged in “opposite-sex relationships.”<sup>26</sup> This statutory limitation leaves LGBT youth more vulnerable to abuse by a dating partner.

Law reforms in the past two decades have made significant progress in improving teen victims’ access to protective orders. However, additional reforms are necessary in the aforementioned states to revise their protection order statutes to make them more inclusive of

---

<sup>21</sup> See Geoffrey Thomas Greenlees, Student Note, Drawing the Necessary Line: A Review of Dating Domestic Violence Statutes around the United States, 50 Fam. Ct. Rev. 679, 683 (October, 2012) (criticizing definitions of “dating relationship”).

<sup>22</sup> Id.

<sup>23</sup> Id.

<sup>24</sup> Id.

<sup>25</sup> Id.

<sup>26</sup> Id.

teen victims.

## **2. Implications from Recent Research on Protection Orders**

Extensive research exists on the topic of orders of protection for *adult* victims of domestic violence.<sup>27</sup> However, until recently, no empirical research focused on orders of protection for *teen* victims. Thus, the reform movement that enacted state protection order laws for the benefit of teen victims did so without the benefit of research to guide its formulation. Recently, a study funded by the National Institute of Justice (NIJ) in New York State has rectified this omission.<sup>28</sup> Analysis of these findings suggests possible areas for reform that might improve the application of the legal remedy of protective orders for teen victims.

### ***(1) Low utilization rate of OPs by teen victims***

The aforementioned research revealed, first, that many youth who were potential beneficiaries of protection orders for TDV were unaware of the law and/or confused about its provisions. Many youth, for example, did not know that they could petition without the involvement of parents.<sup>29</sup>

This finding suggests that states should conduct public education campaigns to teach the public, in general, and teens, in particular, about the availability of protection orders for victims of dating violence. Such educational campaigns should explain the key features of protective orders and their eligibility requirements, particularly the availability of these protection orders to teens and the ability of teens to petition on their own behalf. Schools (both middle schools and high schools) would be important venues to disseminate such information to teens.

Second, the NIJ research revealed that teen victims of dating violence rarely were assisted by police or school officials who either informed the teens of the availability of the orders or who assisted them in the petitioning process.<sup>30</sup> Those youth who did call the police for assistance reported that their interaction was unsatisfactory. For example, “[s]ome reported that the police were unresponsive to requests for enforcement, others that they were dismissive of the seriousness of the violation, and still others that they released the perpetrator so quickly that the risk of violating the OP would appear minimal to him.”<sup>31</sup> In addition, traditional sources of support for adult victims (such as domestic violence advocacy organizations) rarely served teen clients. Therefore, these advocates were similarly unavailable to provide teen victims with

---

<sup>27</sup> Some of the research is summarized in Eve S. Buzawa & Carl G. Buzawa, *Do Arrests and Restraining Orders Work?*, 1996; Victoria L. Holt & NCJ, *Civil Protection Orders and Subsequent Intimate Partner Violence and Injury* (2004).

<sup>28</sup> Klein, *supra* note 19, at 3. The NIJ-funded New York study analyzed multiple quantitative data sets, including all protection orders obtained by teen victims age 18 and younger (n=1200) from family courts in New York State in 2009 and 2010 as well as criminal and police domestic violence incident report files for all respondents. It also included individual interviews with a small sample of young women aged 15 to 19 (n=13) who sought and/or obtained orders of protection, and also group interviews with a sample of male and female teens aged 12 to 18 years old (n=122) likely to be exposed to dating violence.

<sup>29</sup> *Id.* at 13-14.

<sup>30</sup> *Id.* at 14. Only about ten percent of the teen victims received any police assistance. *Id.*

<sup>31</sup> *Id.* at 107.

advice or support.<sup>32</sup>

These findings suggest the need for improvement in the response to teen dating violence from law enforcement and social service agencies. Police should take acts of teen dating violence more seriously by arresting the perpetrators for the underlying offense that led to the petitioner's request for a restraining order. Additional police training on the dynamics of teen dating violence is necessary to improve police training to sensitize them to the prevalence of the problem of TDV and its dynamics. For their part, social service agencies should serve all victims of partner violence, not merely adult survivors. Suggestions for reform of the law enforcement response are explored further below.

In addition, teens could benefit from the involvement of other adults to screen for the occurrence of teen dating violence and also to inform teen victims of the availability of protection orders. For example, more emphasis should be placed on the role of school officials. Various other adults might play important roles in terms of screening for teen dating violence and educating youth about protection orders. For example, laws in all states impose mandatory duties on physicians to report child abuse and neglect. State legislatures could impose similar mandatory duties on physicians to screen for teen dating violence and to disseminate information to teens about access to protective orders.

## *(2) Characteristics of victims, perpetrators, and dating violence*

The NIJ study also shed light on the characteristics of the victims, abusers, and the nature of dating violence. Most victims in the study were female.<sup>33</sup> The ages of victims ranged from 12 to 18.<sup>34</sup> Most petitioners were younger than their abusers (the mean age difference was almost 3 years). The mean age of respondents was almost 21.<sup>35</sup> One-third of abusers were minors (18 or younger). Many victims had children with their abusers.<sup>36</sup> In fact, concern for their children was the motivating factor for many teen victims to seek orders of protection.<sup>37</sup>

Most restraining orders were only temporary and short in duration (lasting on average two months). Only a small percentage of teen victims received orders of a meaningful duration (lasting over a year).<sup>38</sup>

Most abusers had extensive criminal histories, averaging four prior arrests.<sup>39</sup> Many offenders had committed a number of previous sexual crimes. Some of these offenders could have been charged with criminal sexual acts in conjunction with the acts that led to the protective order, but prosecutors rarely did so.<sup>40</sup> Similarly, in light of the age differentials between many victims and offenders, some offenders could have been charged with statutory rape but again

---

<sup>32</sup> Id. at 16.

<sup>33</sup> Id. at 49.

<sup>34</sup> Id.

<sup>35</sup> Id. at 50.

<sup>36</sup> Id. at [need pin cite].

<sup>37</sup> Id. at 16.

<sup>38</sup> Id. at 17.

<sup>39</sup> Id. at 50 (arrests were for adult criminal offenses rather than juvenile offenses).

<sup>40</sup> Id.

prosecutors generally did not do so.<sup>41</sup>

Not surprisingly, many offenders had concurrent arrests (for simple or aggravated assault) along with the proceedings for the protective order.<sup>42</sup> It is quite possible that the victims' ensuing injuries and/or the fear associated with the underlying assault motivated them to seek the order of protection.

The above research findings raise several policy implications. The finding of the young ages of many victims (some as young as 12) as well as the youth of many perpetrators leads to the conclusion that restraining order statutes should not contain limitations on the age of either the victim or perpetrator in order to ensure the maximum access to protective orders by petitioners.

The finding that many teen victims have children with their abusers suggests that many teen victims may need other legal services in addition to restraining orders. Family court judges, when asked to issue restraining orders, should screen teen victims to discover if they have other outstanding family law issues that should be taken into account (such as orders for child support or custody/visitation).

The extensive criminal records of many abusers also evoke policy implications. The majority of respondents had committed uncharged offenses (often sexual offenses) against the teen victims. This fact suggests, once more, that police may not be taking cases of teen dating violence sufficiently seriously. Judges may be subject to the same criticism. This speculation is supported by the fact that most teen victims tended to receive only temporary orders (not attributable to their failure to appear for a final hearing) and these orders tended to be short in duration. Additional training is needed on the subject of teen dating violence for both law enforcement officials and judges to better protect teen victims.

The extensive criminal histories of the offenders and the nature of their offenses (often offenses against the person) also suggest that these abusers are particularly dangerous offenders. For example, the prevalence of stalking offenses (included in more than half of the petitions for protective orders)<sup>43</sup> as well as sexual assaults raises red flags about the lethality of these offenders. For adult victims, stalking and sexual assaults are high lethality indicators in risk assessment instruments that are now standard protocols by law enforcement.<sup>44</sup> Such risk assessment protocols should be used by law enforcement and judges in responding to victims and perpetrators of teen dating violence. In addition, in light of the seriousness of these offenses and the extensive criminal histories of the offenders, legislatures might enact enhancements to the penalties for domestic violence offenses in cases in which the victims are juveniles (or perhaps juveniles below a certain age).

---

<sup>41</sup> Id. at 54.

<sup>42</sup> Id. at 52 (slightly more than 20 percent of respondents had arrests within a month of the protection order proceedings).

<sup>43</sup> Id. at 63.

<sup>44</sup> See Jacquelyn C. Campbell, Danger Assessment Instrument (2003), <http://www.dangerassessment.org/WebApplication1/pages/da/DAEnglish2010.pdf>; Neil Websdale, Assessing Risk in Domestic Violence Cases in Encyclopedia of Domestic Violence 38 (Nicky Ali Jackson ed. 2007).

These reforms would result in improvements in the intervention process for TDV by educating young victims about their legal options and by assisting them in the petitioning process. The reforms would also strengthen the response of law enforcement to the problem of TDV to hold the perpetrators accountable.

## **B. Teen Dating Violence Prevention Education**

### **1. Statutes and Their Shortcomings**

Beginning in 2005, another law reform movement addressed the problem of teen dating violence by means of the adoption of a proactive approach. State legislatures began enacting statutes implementing TDV prevention education programs in the schools. Approximately 20 states have enacted such laws in the past decade.<sup>45</sup>

These state laws reflect both primary and secondary prevention approaches. A primary prevention approach aims to prevent violence in dating relationships *before* it occurs. This approach consists of educational awareness programs. Educational material identifies the warning signs of adolescent dating violence and contrasts them with the characteristics of healthy intimate relationships. A secondary prevention approach addresses dating violence that has *already* occurred in an attempt to intervene in order to prevent its recurrence or escalation. This latter approach includes the creation of policies and protocols to deal with reports and incidents of violence after they come to light. Both approaches are important aspects of an institutional response to teen dating violence.

Before the beginning of the TDV prevention-education law reform movement, many states had laws that authorized the teaching of health education programs in the schools. However, health-based curricula did not include any mention of the issue of teen dating violence. In 2005, the situation changed with Rhode Island's adoption of the first comprehensive statute on teen dating violence prevention.

Rhode Island became the first state to enact a teen dating violence prevention law in response to the murder of a young woman, Lindsay Ann Burke, by her estranged boyfriend. In the course of the prosecution of the slayer, the victim's mother, Ann Burke, met Rhode Island Attorney General Patrick Lynch and conferred with him about the need for prevention education in the schools. They partnered in successfully advocating for legislation requiring TDV prevention instruction in Rhode Island schools in all health education classes for grades seven to

---

<sup>45</sup> Ariz. Rev. Stat. Ann. § 15-712.01 (2011); Conn. Gen. Stat. Ann. § 10-220a (2010); Del. Code Ann. tit. 14, § 4112E (2012); Fla. Stat. Ann. § 1003.42 (2012); Ga. Code Ann. § 20-2-314 (2009); 105 Ill. Comp. Stat. Ann. 110/3 (2011); Ind. Code Ann. § 20-19-3-10 (2011); La. Rev. Stat. Ann. §§ 17.81, 3996 (2012); Md. Code Ann., Educ. § 7-411.1 (2011); Mass. Gen. Laws Ann.ch. 69, § 1D (2012); Mass. Gen. Laws Ann.ch. 71, § 2C (2012); Neb. Rev. Stat. §§ 79-2,141, 79-2,142 (2011); N.J. Stat. Ann. §§ 18A:35-4.23, 18A:35-4.23a, 18:37-33, 18:37-35, 18:37-36, 18:37-37 (2011); Ohio Rev. Code Ann. §§ 3313.60, 3313.666, 3319.073 (2012); Or. Rev. Stat. § 147.453 (2012); 24 Pa. Cons. Stat. Ann. § 15-1553 (2012); R.I. Gen. Laws §§ 16-21-30, 16-22-24, 16-85-1 (2011); Tenn. Code Ann. § 49-1-220 (2011); Tex. Educ. Code Ann. § 37.0831 (2011); Va. Code Ann. §§ 22.1-207.1, 201.1:1(2011); Wash. Rev. Code Ann. § 28A.300.185 (2011).



twelve.<sup>46</sup>

The victim's mother, who was a school nurse and an eighth-grade health teacher, subsequently initiated nationwide efforts on TDV prevention education. Together with state Attorney General Lynch, she was influential in persuading state attorneys general to work with their public school districts to incorporate TDV policies and curricula in their home states. Eventually, the influence of Burke and Lynch reached the federal level when Congress incorporated funding for TDV prevention education in the VAWA Reauthorization Act of 2013.<sup>47</sup> VAWA grants are available to develop, maintain, and improve schools' educational programs that focus on the prevention of dating violence. Grant programs currently must include the development of school-based policies and protocols on TDV.

As explained above, the state law reform movement consisted of twenty states authorizing TDV prevention education laws. However, these state laws vary considerable. Six states may be identified as "strong" state approaches because of their comprehensive policies.<sup>48</sup> Each of these state laws authorize at least four of the following five components: (1) mandatory instruction for students about TDV prevention; (2) mandatory training of school personnel; (3) a broad scope that targets the youngest victims; (4) intervention strategies to respond to reports and incidents of dating violence; and (5) a parental awareness program.

The most effective state laws impose mandatory education requirements that require school districts to implement dating violence instructional programs for their students. In contrast, most states with TDV prevention education laws create permissive regimes – merely *encouraging* school districts to create TDV prevention education programs in the schools. Although the law reform movement on TDV prevention education rapidly swept the country, the crusade to enact *mandatory* TDV prevention education did not achieve much success. Only a half dozen states enacted mandatory legislation. Moreover, the remaining states laws are less effective because they fail to address many of the aforementioned components. In addition, some of the weaker state laws reflect only a primary prevention approach (that is, TDV awareness education, whereas others encompass only a secondary prevention approach (a TDV policy that specifies protocols for responding to incidents), rather than a combination of the two approaches.

Strong state laws have other noteworthy features. They mandate not only instruction of students on teen dating violence, but also require training of school personnel. Strong laws target a broad student audience that includes not only high school students but also middle school students. These statutes reflect an awareness of the early onset of dating abuse, and mandate early prevention efforts.

Effective statutory regimes also require that school districts develop policies and protocols about teen dating violence to investigate incidents of teen dating violence; identify interventions for both victims (such as counseling) and perpetrators (such as sanctions); specify persons and agencies that must be notified of the abuse; guarantee confidentiality; provide

---

<sup>46</sup> On the history of this legislation, see D. Kelly Weisberg, *Lindsay's Legacy: The Tragedy that Triggered Law Reform to Prevent Teen Dating Violence*, 24 *Hastings Women's L.J.* 27 (2013).

<sup>47</sup> Pub. L. No. 113-4, 127 Stat. 54 (2013).

<sup>48</sup> These states include Delaware, Florida, Nebraska, Ohio, Rhode Island, and Texas.

procedures for ensuring the victim's safety (such as accommodations), and provide immunity for good faith reports. Finally, some state laws recognize a comprehensive approach that involves bystander education as well as parent education.

## 2. Implications from Research on Effectiveness of TDV Programs

Considerable research now exists demonstrating the effectiveness of TDV prevention education programs. Social scientists first began empirical investigations into the effectiveness of such programs even before the law reform movement took root.<sup>49</sup> As a result, two decades of empirical evaluations have evaluated hundreds of programs targeted at middle school students as well as high school students.<sup>50</sup> Much of this research evaluates changes (before and after TDV prevention education instruction) in terms of students' attitudes about violence and gender stereotyping, awareness of myths about violence in relationships, relationship skills in conflict management and problem solving, and knowledge about the characteristics of health relationships.

These studies on effectiveness conclude that the "empirically evaluated programs have demonstrated some potential in eliciting change."<sup>51</sup> Following the instruction, for example, adolescent participants in school-based prevention programs demonstrate increased knowledge of, and more appropriate attitudes about, partner violence.<sup>52</sup> Studies also report positive results involving not only the immediate but also the long-term impact of instruction on rape, prevalence of partner violence; attitudes about dating violence; and behavioral intentions about hypothetical situations in which the participants witnessed dating violence.<sup>53</sup> Some studies found that prevention education programs reduce physical, severe physical, and sexual dating violence victimization and perpetration – even several years' post-exposure.<sup>54</sup> Studies also report positive outcomes for bystander intervention, particularly an increased willingness by teen bystanders to intervene in cases of TDV and also teens bystanders' enhanced confidence in their ability to intervene when they witness dating or sexual violence.<sup>55</sup>

---

<sup>49</sup> See, e.g., Vangie A. Foshee et al., *The Safe Dates Program: 1-Year Follow-Up Results*, 90 *Am. J. Public Health* 1619 (2000); Vangie A. Foshee et al., *Family Violence and the Preparation of Adolescent Dating Violence: Examining Social Learning and Social Control Processes*, *J. Marriage & Fam.* 331 (1999); Vangie A. Foshee et al., *An Evaluation of Safe Dates, An Adolescent Dating Violence Prevention Program*, 88 *Am. J. Public Health* 45 (1998); Vangie A. Foshee et al., *Assessing the Long-Term Effects of the Safe Dates Program and a Booster in Preventing and Reducing Adolescent Dating Violence Victimization and Perpetration*, 94 *Am. J. Public Health* 619 (2004).

<sup>50</sup> For reviews of this literature, see T.L. Cornelius & N. Resseguie, *Primary and Secondary Prevention Programs for Dating Violence: A Review of the Literature*, 12 *Aggressive & Violent Behavior* 364 (2007); Maura O'Keefe, *Nat'l Resource Center on Domestic Violence, Teen Dating Violence: A Review of Risk Factors and Prevention Efforts* (Apr. 2005), available at <http://www.vawnet.org>; Jeff. R. Temple et al., *The Need for School-Based Teen Dating Violence Prevention*, 4 *J. Applied Research on Children: Informing Policy for Children at Risk* 1 (2013).

<sup>51</sup> Temple, *supra* note 50, at 2.

<sup>52</sup> *Id.* at 3.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> Heather L. Storer et al., *Efficacy of Bystander Programs to Prevent Dating Abuse Among Youth and Young Adults: A Review of the Literature*, [insert volume?] *Trauma, Violence & Abuse* 1 (2015).

As explained, extensive research now exists on the effectiveness of teen dating violence prevention education programs. That body of research reveals that implementation of prevention programs holds considerable promise in reducing the incidence of teen dating violence and eventually adult partner violence. These programs have the potential of reaching a large number of students, eliciting a change in culture, and providing training so that school officials can respond appropriately to incidents and offer school services to victims and perpetrators.<sup>56</sup> In short, “[t]he benefits of implementing dating violence prevention in schools are enormous, and appear to outweigh the costs.”<sup>57</sup>

The success of these programs yields a valuable lesson for policymakers. At present, only twenty states have laws encouraging or requiring schools to develop curriculum on TDV. Legislatures in the remaining states should enact laws authorizing school-based prevention education programs. Mandatory laws are far preferable to permissive laws in order to ensure that the prevention education actually takes place. And, comprehensive approaches clearly are recommended. The prototype Rhode Island law can serve as a model for legislation in other states.

Laws authorizing protection orders for teens are an essential first step in society’s response to TDV. Legislatures should revise their existing legislation to maximize access by teen victims. However, a comprehensive approach is needed – not only protection orders that are issued after the fact but also a proactive strategy such as teen dating violence prevention education laws.

The prevalence of teen dating violence and its consequence of escalating into adult partner violence underscore the need for prevention programs. These programs have been shown to be effective in eliciting change in attitudes and reducing victimization. The problem, of course, is how to encourage more states to get on the bandwagon to enact the necessary legislation. Far too often, the impetus for these state laws has been the death of a teen in the respective states.<sup>58</sup> Surely, there must be another way to influence state legislatures to address the problem.... [Ideas are welcome!]

---

<sup>56</sup> Temple, *supra* note 50, at 5.

<sup>57</sup> *Id.*

<sup>58</sup> For example, Lindsay Ann Burke’s death spurred passage of the Rhode Island law; Tina Croucher’s death was the impetus for the Ohio law; the death of Cindi Santana inspired proposed legislation in California, New York’s legislature considered passage of the Jessica Tush Act, named after a 19-year-old murdered there by her former boyfriend; Arizona enacted a law in memory of Kaity Sudberry; Indiana enacted Heather’s Law, named after a young woman who was murdered by her former boyfriend; and Texas adopted a law to commemorate the deaths of 15-year-old Ortralla Mosley and 18-year-old Jennifer Ann Crecente. See Weisberg, *supra* note 46, at 39-40.