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Exposing the Invisibility of Teen Dating Violence in New Jersey

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I. INTRODUCTION

Domestic violence is a world-wide epidemic that generally masquerades itself and goes undetected by law enforcement, the court system, and ordinary people. While in the last few years legislators, judges, attorneys, and advocates have increased their focus on finding legal solutions to tackling domestic violence, less attention has been paid to dating violence, particularly among teenagers. Teen dating violence is “a pattern of repeated actual or threatened acts that physically, sexually, or verbally abuse a member of an unmarried heterosexual or homosexual couple in which one or both partners is between thirteen and twenty years old.” In many ways dating violence parallels domestic violence, especially since both types of violent relationships can be characterized as cyclical with various stages: “[1] the tension-building stage, characterized by minor incidents between the battered and the victim; [2] the explosion/battering stage, in which the actual battering incident takes place; and [3] the honeymoon or reconciliation stage, characterized by the perpetrator’s remorse, and a period of calm.” Additionally, both teenage victims and adult victims experience physical violence, psychological abuse, and sexual abuse, or some combination thereof.

1 Domestic Violence Information, WEAVE (WOMEN EMPOWERED AGAINST VIOLENCE) http://www.weaveincorp.org/resources/what-is-domestic-violence/ (last visited Nov. 15, 2010)(defining domestic violence as “a pattern of intimidation and abuse that a batterer uses to control his partner. Partners may be married, living together, separated or dating; heterosexual, lesbian, gay, bi-sexual, transgendered or intersexed. It happens to people of every income level, education, race, religion, or profession”).


3 Id.

Many people are ignorant or actively deny that teenagers ever endure such violence, but statistics in fact show the opposite. Teenagers “between the ages of 16 and 24 experience ‘the highest rates of intimate partner violence,’” at a rate almost triple the national average. Research suggests that anywhere from one in five to one in three teenage girls has directly experienced physical violence, and forty percent of teenage girls knew at least “one girl their own age [that] had experienced dating violence.” Such research reveals that teenage victims experience relationship violence at rates similar to those of adults, and ignoring this reality will only mask the problem and increase the likelihood that victims will be in similar relationships during adulthood.

There are several dynamics particular to teen relationships that often increase the likelihood that a teen will remain in an abusive relationship. Teenagers are vulnerable to becoming trapped in violent relationships because they are “going through emotional, intellectual, and physiological changes while struggling with self-esteem issues and identity formation.” Teenagers, especially those who grow up in a home with domestic violence, often lack models of healthy relationships, and as such may not realize that the problems in their relationships are actually abuse. Lack of dating experience may be too much for a teenager to

5 Pollet, supra note 2, at 29.


7 Pollet, supra note 2, at 29.

8 US DOJ


10 Pollet, supra note 2, at 29.
Ione Curva

handle, so often teen victims “may deny, rather than confront, such situations.”\footnote{11} Additionally, lack of experience may compel teenagers to rationalize and misunderstand the violence, so that they “do not perceive the violence as a problem in itself but may attribute it to some other difficulty in the relationship. If only those other problems would go away, the teen rationalizes, then so would the abuse.”\footnote{12}

Combined with lack of dating experience, adolescent females often misinterpret abusive behavior for love, viewing “‘jealousy,’ ‘possessiveness,’ and even physical, sexual, or emotional ‘abuse’ as proof that their boyfriends love them.”\footnote{13} Additionally, teenagers often blame themselves for their victimization, since “teenagers by nature are narcissistic . . . they ascribe causality to themselves.”\footnote{14} Peer pressure additionally increases vulnerability, as teenagers may feel they have to endure abuse, particularly sexual abuse,\footnote{15} in order to maintain social standing.\footnote{16} Social demands frequently encourage stereotypical, gendered behaviors: “dominance for men and passivity for women.”\footnote{17} Gendered stereotypes often convince victims that it is acceptable\footnote{18}

\footnote{13} Saperstein, \textit{supra} note 8, at 187. \textit{See also} Suarez, \textit{supra} note 11, at 429; Brustin, \textit{supra} note 4, at 336.
\footnote{15} \textit{See} Saperstein, \textit{supra} note 8, at 186.
\footnote{17} Sousa, \textit{supra} note 13, at 361.
for males to use force in relationships.\textsuperscript{19} Dating violence can breed many other consequences for teenage victims as well; besides the worse case scenario of homicide, other consequences include lower self-esteem, risky sexual behavior, substance abuse, eating disorders, and mental illnesses such as depression.\textsuperscript{20}

Because of the developmental changes that teens undergo and the pressures and reliance on peers, teenage victims are more likely to seek help from friends than family members.\textsuperscript{21} Teenagers and their parents are often at odds during the formative adolescent years, and as such teens are reluctant to seek help from their parents because many “fear that they will be compromising their independence, for they believe their parents will take complete control of the situation and make all necessary decisions without involving the minor. Others fear that their parents will be angry or unsupportive.”\textsuperscript{22} Parents themselves seem unaware that teen dating violence is an issue: “81\% of parents surveyed either believe teen dating violence is not an issue or admit they don’t know if it’s an issue.”\textsuperscript{23} Besides avoiding help from parents, teenagers may often avoid seeking help from other adults, such as teachers or law enforcement officials,

\textsuperscript{18} See Levesque, \textit{supra} note 15, at 350 (“Adolescent romantic relationships tend to be highly passionate, exciting, and possessive . . . . Adolescents are particularly prone to experiencing normative confusion: what happens in relationships is interpreted as being normal, and thus, abusive relationships are viewed as neither problematic nor intolerable.”).

\textsuperscript{19} Sousa, \textit{supra} note 13, at 361.

\textsuperscript{20} Saperstein, \textit{supra} note 8, at 189.

\textsuperscript{21} Saperstein, \textit{supra} note 8, at 187.

\textsuperscript{22} Brustin, \textit{supra} note 4, at 349.

\textsuperscript{23} University of Michigan Health System, \textit{Who’s Affected by Dating Violence}, \textit{WOMEN’S HEALTH} (June/July 2004), http://www.med.umich.edu/whp/newsletters/summer04/p03-dating.html.
because these adults “may not be receptive. They might mistakenly think she is being melodramatic, exaggerating, or just ‘going through a phase.’ They also might wrongly believe she can easily end the relationship at any time and find a new boyfriend.”

This distrust and miscommunication between teenagers and adults creates obstacles for teenagers who lack guidance and need legal assistance. In fact, the distrust of adults and feeling of not being believed helps silence teenage victims and increase this growing epidemic.

For those teenagers who do recognize the violence and who seek out help, they face a great barrier that many adult victims do not face – access to legal protection. Most states do not provide adequate statutory protection for adolescent victims. While teenagers may contact the police when a violent incident occurs, their “cases may not be charged or prosecuted . . . Without specific statutory authority, teens are legally incapable of initiating their own case and must have the assistance of an adult or guardian. Some protection order statutes expressly limit protection to adult victims of domestic violence.” Since teenage victims cannot obtain restraining or protective orders in many states, they are not only unable to obtain protection, but also they are unable to benefit from statutory reforms and services for domestic violence victims.

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24 Saperstein, supra note 8, at 187. See Sousa, supra note 13, at 363.

25 Levesque, supra note 15, at 346 (claiming that almost half of teen victims never tell anyone about their abusive relationships.).

26 Brustin, supra note 4, at 332.

27 See Levesque, supra note 15, at 362-64 (youth may not be able to benefit from several statutory reforms, such as mandatory arrest policies in domestic violence situations, restraining order violations, and more stringent penalties for batterers. Likewise, such exclusions mean that maltreated adolescents may not avail themselves of critical services organized and funded by states to care for domestic
The state of New Jersey, unfortunately, is one of those states that do not provide adequate protection for teenage victims of domestic violence. Although New Jersey has some of the most comprehensive domestic violence protections in the country for adult victims, the state does not explicitly permit victims under age 18 to file for restraining orders, and has failed to provide a clear definition of a dating relationship, which appears to be the singular avenue for teenage victims to obtain legal protection. By having an adult-centered legal system, “adolescents are left without legal recourse . . . In essence, therefore, adolescent battering remains invisible.”

Since teenagers experience domestic violence at an alarmingly high rate with no legal recourse it is essential that New Jersey amend its laws to be more comparable to other jurisdictions (such as New York and Washington D.C.), which do provide comprehensive legal assistance to teen victims of domestic violence.

II. NEW JERSEY’S STATUTORY PROTECTIONS

Across the country, states vary on whether teenage victims of domestic violence may be able to obtain legal protections. Sometimes while they may able to obtain a civil restraining order, they may not be able to obtain a criminal protective order, or vice versa, depending on the definition of the offense or who qualifies as a victim. While New Jersey law has comprehensive protections in place for adult victims of domestic violence, it unfortunately does not clearly indicate if those same protections may be used by teenage victims. New Jersey state violence victims, including domestic violence shelters and nonresidential programs that provide referrals, medical assistance, and counseling.”).

28 Levesque, supra note 15, at 357.

law does not specify whether minors can petition for restraining order on their own behalf, nor does it specify who may file on their behalf. If a minor is able to file on their own behalf, New Jersey law does not specify whether a parent or guardian of the minor will be notified about the restraining order. A thorough examination of New Jersey case law makes clear that the state needs to revise its current statute on domestic violence so that teenage victims may be afforded legal protections as they deserve.

The most recent statistics on domestic violence in New Jersey fail to reflect the rate at which teenagers experience violence. However, the State’s most recent domestic violence offense report highlights the prevalence of domestic violence generally in New Jersey. From 2007 to 2008, there was a slight decrease (from 71,901 offenses in 2007 to 70,613 offenses in 2008) in domestic violence offenses reported to the police.\(^{30}\) However, while the number of offenses reported to police decreased, there was a four percent increase in offenses where serious injuries were reported (1,445 in 2007 vs. 1,497 in 2008).\(^{31}\) Even more shocking, in one year the number of domestic-violence related homicides increased by fifty percent (from 38 murders in 2007 to 57 in 2008). These statistics are quite alarming and should spur improved action by the police, court system, and legislators.

\(^{30}\) STATE OF NEW JERSEY DEPARTMENT OF LAW AND PUBLIC SAFETY DIVISION OF STATE POLICE UNIFORM CRIME REPORTING UNIT 1, TWENTY-SIXTH ANNUAL DOMESTIC VIOLENCE OFFENSE REPORT 2008 1 (2008).

\(^{31}\) Id. at 8.
New Jersey’s current law on domestic violence, the Prevention of Domestic Violence Act, lists 14 criminal offenses that can be the basis for obtaining a civil restraining order.\textsuperscript{32} NJ Stat. Ann. 2C:25-19(3)(d) defines who may be considered as a victim of domestic violence:

‘Victim of domestic violence’ means a person protected under this act and shall include any person who is 18 years of age or older or who is an emancipated minor and who has been subjected to domestic violence by a spouse, former spouse, or any other person who is a present or former household member.

‘Victim of domestic violence’ also includes any person, regardless of age, who has been subjected to domestic violence by a person with whom the victim has a child in common, or with whom the victim anticipates having a child in common, if one of the parties is pregnant. ‘Victim of domestic violence’ also includes any person who has been subjected to domestic violence by a person with whom the victim has had a dating relationship.\textsuperscript{33}

While one provision explicitly requires that a victim must be either 18 years old or older, or an emancipated minor, the provision on dating relationship does not have an age requirement.\textsuperscript{34} This ambiguity surrounding who qualifies as a victim needs to be clarified, since there appears to

\textsuperscript{32} N.J. STAT. ANN. § 2C:25-19(a)(2009). The 14 offenses that may be the basis for a restraining order include homicide, assault, terroristic threats, kidnapping, criminal restraint, false imprisonment, sexual assault, criminal sexual conduct, lewdness, criminal mischief, burglary, criminal trespass, harassment, and stalking. \textit{Id}.

\textsuperscript{33} N.J. STAT. ANN. § 2C:25-19(d).

\textsuperscript{34} N.J. STAT. ANN. § 2C:25-19(d).
be an indication that the legislature wants to provide legal assistance to teenage victims, or at least is open to the idea.

There have been a handful of New Jersey cases that deal with either the age requirement or dating relationship as the basis for obtaining a restraining order. In one case where the plaintiff was formerly in a dating relationship with the defendant, the Court found that the plaintiff could obtain a restraining order against defendant based, among other things, on his threats to harm her physically and his threats to kill her. The defendant appealed from a final restraining order entered in favor of plaintiff, arguing that plaintiff was not a ‘victim of domestic’ violence because, at the time the . . . [incident occurred] . . . [plaintiff] was only seventeen years of age.”

The court held, however, that there was not age requirement ascribed to dating violence provision. Thus, it would seem that at least one New Jersey court has permitted a victim under age 18 to obtain a restraining order when the parties had been in dating relationship, despite the fact that the plaintiff was not 18 years old.

The New Jersey legislature has also showed its tendency to construe a “dating relationship” liberally in order to increase possible protections to domestic violence victims. In


36 Id. at 4.

37 Id. (finding that “the term ‘any person’ includes “any person,” regardless of age. Based on the evidence presented in this case, which established that plaintiff had been subjected to an act of domestic violence by defendant, and that defendant was a person with whom plaintiff had had a dating relationship, plaintiff was undoubtedly a ‘victim of domestic violence’ as that term is defined in N.J.S.A. 2C:25-19d.).

38 J.S. v. J.F., 983 A.2d 1151, 1152 (N.J. Super. App. Div. 2009)(stating “the facts should be liberally construed in favor of finding a dating relationship, because the Act itself is to be liberally construed in favor of the legislative intent to eradicate domestic violence.”).
a case where the defendant claimed to have paid for the plaintiff’s company, court still found there was a dating relationship.  

39 The plaintiff in the case was a professional escort, but the court found her to be credible in stating that the parties were actually dating, and the court even stated that it “reject[s] the contention that a relationship which includes a payment of consideration for the other’s time precludes the finding of a dating relationship.”

40 This expansive view of a dating relationship demonstrates legislative intent to support victims of domestic violence.

In another case where the parties dated for one year, then the plaintiff petitioned for a restraining order three years later, the court had to determine whether the three year hiatus since parties dated made plaintiff protected person under the New Jersey statute.

41 Again the court took a liberal stance on whether a dating relationship existed by stating:

The passage of time from the end of the dating relationship is only one factor to be considered in determining the availability of the Act's protection . . . . No mathematical formula governs the outcome. A qualitative analysis is required, weighing and balancing the nature and duration of the prior relationship, the duration of the hiatus since the end of that relationship, the nature and extent of any intervening contacts, the nature of the precipitating event, and any other appropriate factors. The ultimate issue is whether, in light of these factors, the victim was, at the time of the precipitating event, subjected to potential abusive and controlling behavior related to and arising out of the past domestic

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39 Id.

40 Id. at 1153.

relationship. If so, the victim is in need of and entitled to the special protection provided by the Act.\(^{42}\) (emphasis added).

The court found that the defendant’s unwanted contacts were frequent and showed a continuing, existing emotional attachment, as well as the defendant’s desire to control his former girlfriend and to harass her.\(^{43}\) The courts expansive view of what constitutes a dating relationship supports legislative intent to provide as much legal protection as possible for domestic violence victims in New Jersey.

One New Jersey court decision has become a seminal case in the state in providing guidelines for determining whether a dating relationship exists between parties. The court in *Andrews v. Rutherford* developed a six-factor approach to determine whether a dating relationship existed between parties to confer jurisdiction on the court.\(^{44}\) Unlike other jurisdictions that have explicitly defined what constitutes a dating relationship,\(^{45}\) the court recognized the need to define what “constitutes a ‘dating relationship’, as the legislature has failed to define the term within the Act.”\(^{46}\) The court’s analysis was based both on linguistic interpretation as well as legislative intent: “in the absence of an explicit indication of special

\(^{42}\) *Id.* at 597.

\(^{43}\) *Id.*


\(^{45}\) *See id.* at 258. For example, in “North Carolina, a dating relationship ‘is one wherein the parties are romantically involved over time and on a continuous basis during the course of a relationship.’ In Michigan, a dating relationship is defined as ‘frequent, intimate associations primarily characterized by the expectation of affectional involvement.’ In Vermont, ‘dating’ is simply defined as a ‘social relationship of a romantic nature.’” *Id.*

\(^{46}\) *Id.* at 256.
Ione Curva

meaning, words of a statute are to be given their ordinary and well-understood meaning . . . In enacting the Prevention of Domestic Violence Act, the legislature intended to protect victims, not to punish a person who committed acts of domestic violence. 47 The court listed six factors that it should consider in determining whether a dating relationship existed in order for the court to retain jurisdiction over the parties:

1. Was there a minimal social interpersonal bonding of the parties over and above a mere casual fraternization?
2. How long did the alleged dating activities continue prior to the acts of domestic violence alleged?
3. What were the nature and frequency of the parties' interactions?
4. What were the parties' ongoing expectations with respect to the relationship, either individually or jointly?
5. Did the parties demonstrate an affirmation of their relationship before others by statement or conduct?
6. Are there any other reasons unique to the case that support or detract from a finding that a "dating relationship" exists? 48

In addition to enumerating this six-factor approach, the court clarified that these factors should also be liberally construed, and that “none of these factors may be individually dispositive on the issue, one or more of the factors may be more or less relevant in any given case depending on the evidence presented” 49 The court analyzed the facts of the case based on the six factors, and

47 Id.

48 Id. at 260.

49 Id.
Ione Curva

eventually found that the parties did have a dating relationship, and therefore the plaintiff was a protected person covered under the NJ statute.\textsuperscript{50}

As the court in \textit{Andrews} established this non-dispositive, six-factor approach to analyze whether a dating relationship exists, it seems apparent that a court must conduct its analysis on a case-by-case, fact-by-fact basis. In a recent 2010 case, one New Jersey court found that it could not issue a restraining order because the relationship between the plaintiff and defendant seemed too casual to qualify as a dating relationship, and therefore the court lacked jurisdiction.\textsuperscript{51} “The court said a trial judge went too far in entering restraints where it appeared the plaintiff and defendant had only engaged in chitchat over a few months, and even that had been broken off for more than two years prior to the domestic violence hearing.”\textsuperscript{52} The court’s decision illustrates that there must be an individualized analysis of each case, since the trial court found that there was a dating relationship but the Appellate Court reversed the decision and issuance of a restraining order.\textsuperscript{53} Thus, even though it was useful for the \textit{Andrews} court to attempt to establish some guidelines for determining whether a dating relationship exists, it is still ultimately up to

\textsuperscript{50} \textit{Id.} at 265.

\textsuperscript{51} C.K. v. A.P., 2010 N.J. Super. Unpub. LEXIS 2590 1, 4-5 (N.J. Super. Ct. App. Div. 2010)(stating that during the few months that the parties were in a “relationship . . . [they] engaged primarily in casual ‘chitchatting’ . . . They did not live together; go out to dinner; hold themselves out to the public as dating . . . meet each other's families; attend events or holidays together; hold hands or kiss; discuss their future. They had no sexual relationship and were not intimate . . . ”)


each judge’s discretion to determine whether a relationship is serious enough that a plaintiff can qualify as a victim under the New Jersey statute.

In addition to the problem of courts determining what a dating relationship is, courts around the state have not been consistent in permitting or denying teenage victims of domestic violence access to restraining orders. In another case, the court did not permit a mother to file a restraining order on behalf of her teenage daughter against her step-father, and found that the daughter herself did not qualify as a “victim” eligible to seek a restraining order on her own. The plaintiff mother appealed an order dismissing her complaint against her husband, whom the fifteen-year-old daughter claimed had sexually abused her since she was eight or nine years old. The court suggested that perhaps the mother could obtain criminal relief against her husband for her daughter’s sexual assault, but held that “the state of the law in New Jersey with respect to domestic violence does not provide a vehicle for mothers to seek restraining orders on behalf of their daughters or sons.” Perhaps the court declined to permit the daughter to obtain a restraining order because of the nature of her relationship with the defendant, but this difference between a familial relationship and dating relationship does not negate that violence was committed against the fifteen-year-old daughter. This court’s decision reflects an arbitrary difference in the law, which may permit teenagers in dating relationships to obtain a restraining order, but bars teenagers in other kinds of relationships with a defendant to obtain protection, even though an adult in the same relationship would be able to obtain help.

55 Id.
56 Id. at 615.
57 Id. at 616.
Instead of explicitly reforming the law to permit teenagers to obtain restraining orders on their own for dating or other relationships where domestic violence may result, the legislature as created a law to encourage education on the issue of domestic violence.\textsuperscript{58} The law states that “A board of education may include instruction on . . . domestic violence . . . in the curriculum of elementary school, middle school, and high school pupils. The instruction shall enable pupils to understand the psychology and dynamics of family violence, dating violence . . . and to learn methods of non-violent problem solving.”\textsuperscript{59} While the legislature may be commended in attempting to educate New Jersey youth on the problem of domestic violence, this preventative approach will be of little use to those teenagers already in violent relationships with no ability to obtain legal protection. Education reform certainly should be one part of the State’s attempt to combat domestic violence, but it alone combined with the existing Prevention of Domestic Violence Act are insufficient to provide truly comprehensive protection for teenage victims of dating and domestic violence.

Currently, two new pieces of legislation that would amend the law for the benefit of teenagers have been introduced to both the Senate and General Assembly, but they unfortunately have not moved forward.”\textsuperscript{60} The first new legislation states:

In any case where the alleged victim is a child under the age of 18 years old or is developmentally disabled . . . or where the alleged victim is 18 years of age or


\textsuperscript{60} Gialanella, supra note 50, at 11.
older and is mentally defective . . . the complaint may be filed by the alleged victim’s parent or guardian on his behalf.  

While these bills would add greater protections for teenage victims if passed, they are still not ideal protections for teenage victims. Potential problems for the new bills include that they do not permit teenagers to file restraining orders on their own, do not permit teenagers to file orders without violating confidentiality, and do not take into account the fact that the abusers in the case may in fact be the teenager’s parent or guardian. Thus, as will be later discussed, new reforms must be made to the law.

Additionally, bills have been proposed to the Senate and General Assembly to lower the age for a victim to be able to file a restraining order to 16 years old, and also permit orders to be issued to abusers who are 16 years old and older. Although it seems positive that the legislature seeks to expand protection to victims who are at least 16 years of age, this provision does not go far enough in covering the countless number of teen victims in New Jersey. As will be discussed later in Part V, for the legislation to protect the greatest number of victims, it should eliminate the age requirement altogether or at least create various age categories, rather than limitations, so that all people could receive protection.

III. STATUTORY PROTECTIONS FROM OTHER JURISDICTIONS – NEW YORK AND WASHINGTON D.C.
Looking at other jurisdictions, thirty-three states around the country have permitted victims in dating relationships to file for restraining orders. Nineteen states permit an adult to file a restraining order on a teenager’s behalf, while fifteen states explicitly or implicitly permit teenagers to file restraining orders on their own, though some impose age limitations. “State

65 See Saperstein, supra note 8, at 192; see also ALA. CODE §§ 30-5-2(5)(B)(1); 30-5-5(A) (2004); ARIZ. REV. STAT. ANN. § 13-3602A (West 2004); ARK. CODE ANN. §§ 9-15-201(D), 9-15-203 (Michie 2004); GA. CODE ANN. §§ 19-13-1, 19-13-3(A) (Harrison 2004); HAW. REV. STAT. § 586-3(B) (Michie 2004); IOWA CODE ANN. § 236.2.6 (West 2004); KAN. STAT. ANN. §§ 60-3102, 60-3104 (2004); L.A. REV. STAT. ANN. § 2312.4 (West 2004); MD. CODE ANN., FAM. L. § 4-501(M) (2004); MICH. COMP. LAWS ANN. §§ 3.703(F), 600.2950 (West 2004); MISS. CODE ANN. §§ 93-21-3(A), (D), 93-21-7(1) (2004); MONT. CODE ANN. § 40-15-102 (1) (2004); N.C. GEN. STAT. § 50B-2(A) (2004); PA. CONS. STAT. ANN. § 6106(A) (West 2004); S.D. CODIFIED LAWS §§ 25-10-3(1), 15-6-17 (Michie 2004); TENN. CODE ANN. § 36-36-3-602(B) (2004); TEX. FAM. CODE ANN. § 82.002 (Vernon 2004); VT. STAT. ANN. tit. § 1103(A) (2004); W. VA. CODE ANN. §§ 48-27-204 (3)-(4) (Michie 2004).

statutes usually fall into one of three categories regarding who must file a petition for an order of protection in a teen dating violence situation: (1) any victim, (2) certain individuals on behalf of minors, or (3) minors who have reached certain ages.”

Ideal statutes permit a teenager of any age and in any qualifying relationship with abuser to file for an order on his/her own. “In order to qualify for an order of protection under a domestic violence statute, the victim must have a relationship with her abuser that fits within at least one of the statutorily defined relationship categories. If a relationship does not fall into one of the categories, the victim has no protection under the statute, and she must rely on other legal or social devices for relief.”

In New York, minors are permitted to obtain orders of protection. Similarly to New Jersey, the New York law enumerates various criminal offenses that can be basis for DV order of protection. The statutorily defined relationship categories that would allow a victim to qualify for an order of protection include: blood, marriage, former marriage, child in common, and

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67 Largio, supra note 10, at 955.

68 Largio, supra note 10, at 958.

69 N.Y. FAM. CT. ACT. § 822 (McKinney 2010).

70 N.Y. FAM. CT. ACT § 812(1) (McKinney 2010). The offenses include “disorderly conduct, harassment in the first degree, harassment in the second degree, aggravated harassment in the second degree, sexual misconduct, forcible touching, sexual abuse in the third degree, sexual abuse in the second degree . . . stalking in the first degree, stalking in the second degree, stalking in the third degree, stalking in the fourth degree, criminal mischief, menacing in the second degree, menacing in the third degree, reckless endangerment, criminal obstruction of breathing or blood circulation, strangulation in the second degree, strangulation in the first degree, assault in the second degree, [and] assault in the third degree or an attempted assault.”

71 N.Y. FAM. CT. ACT § 812(1)(a-d) (McKinney 2010).
“persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time.”

Nowhere in the statute does New York impose age requirements for those seeking orders of protection. New York’s category of an intimate relationship parallels New Jersey’s “dating relationship” category. However, New York’s statute goes a step farther than New Jersey since the New York legislature has detailed factors that a court may consider to determine if a relationship is an “intimate relationship,” including “the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an “intimate relationship”.

The legislature’s recitation of factors provides some guidance for courts, though the legislature does state that a court may consider these factors instead of shall, and also states that its enumeration of factors are not limited to those listed. Thus, the legislature leaves some room for judicial interpretation on a case-by-case basis.

While the New York law seems to provide more comprehensive protection for teenagers, the law is silent on a few important issues as well. As there is no mention of an age requirement, the law does not specify whether orders of protection can be granted against minor abusers. Additionally, the law does not mention whether minors seeking orders may do so on their own or

72 N.Y FAM. CT. ACT § 812(1)(e) (McKinney 2010).

73 N.J. STAT. ANN. § 2C:25-19(d).

74 N.Y FAM. CT. ACT § 812(1)(e) (McKinney 2010).

75 N.Y FAM. CT. ACT § 812(1)(e) (McKinney 2010).
if someone else must file on their behalf. Also if a minor may file on their own, the statute is silent on whether that minor’s parent or guardian will be notified.

Though the law is deficient in those respects, New York has shown itself to be a proponent of providing legal protection to teenagers. There is an organization in New York City called Day One that provides services for teenage victims of domestic violence, including legal assistance. On its website, Day One provides materials for victims, advocates, educators, and parents, such as brochures on whether teenagers can get orders of protection, and a summation of New York law in simplified language that explains what requirements are to get an order.

Day One not only provides direct representation to teenagers seeking orders of protection, but it also serves to educate teenagers, advocates, educators, and parents so that the issue of teenage dating violence is exposed.

Washington D.C. is another jurisdiction that provides comprehensive services to teenage victims of domestic violence, but in many ways D.C. goes even farther than New York in providing protection. D.C. law has an expansive array of relationships that can qualify one to obtain a civil protection order, including those who live together, and those “who is or was married to, in a domestic partnership with, divorced or separated from, or in a romantic, dating, or sexual relationship . . .” Teenagers, thus, would most likely fall under the “romantic, dating, or sexual relationship” category.

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78 D.C. CODE § 16-1001(7)(2010).
79 See id.
In D.C., minors can obtain protection orders, and the law explicitly states that courts can issue protection orders against minor abusers who are 12 years old or older. The law explicitly defines the ages at which a minor can file on her own, and when/if a minor needs an adult to file on her behalf. A minor is defined as someone under the age of 18, and any minor can have an adult file a protection order on her behalf if she wishes. Minors under the age of twelve must have a parent, guardian or custodian, apply for a protection order on their behalf. Minors who are at least 12 but less than 16 years old may file for a protection order on their own, but “the court may appoint an attorney for the minor.” Thus, the court appears to give teenagers a lot of freedom to file for legal protection without the interference or assistance of their parents or guardians. However, the court has not given teenagers complete freedom to act without parental interference or influence. D.C. law states that if a minor filed on her own and lives with a parent, guardian or custodian, “the court shall send a copy of any order . . . and notice of the hearing to that parent, guardian, or custodian, unless, in the discretion of the court, notification of that parent, guardian, or custodian would be contrary to the best interests of the minor. If the court does not send notice to the parent, guardian, or custodian with whom the minor resides, the court may, in its discretion, send notice to any other parent, guardian, custodian, or other appropriate adult.” Thus, D.C. law grants the court discretion to notify

80 D.C. CODE § 16-1003(a) (2010).
82 D.C. CODE § 16-1001(11)(2010).
84 D.C. CODE § 16-1003(a)(5)(2010).
86 D.C. CODE § 16-1004(e)(2010).
parents if their children seek protection orders. This discretion arguably limits teenagers’ ability
to get protection because they may not want their parents to know, but ideally judges would be
able to determine accurately if it would be more beneficial than harmful to notify a minor’s
parents or guardians.

D.C. like New York has a wonderful organization devoted to ending teen dating violence
and providing services to teen victims – Break the Cycle. Break the Cycle’s website provides
many resources, including Dating Violence 101, individualized state report cards that
describe states’ protections for teen dating violence victims, information on safety planning,
information on how to get a restraining order, and other information. Having such an
organization demonstrates that Washington D.C. takes teen dating violence seriously, and
provides teenagers with some comfort that they can obtain both legal and social services
assistance if they ever find themselves in an abusive situation.

V. REFORMS & POTENTIAL OPPOSITION

New Jersey should be mindful of the statutes of jurisdictions such as New York and
Washington D.C. that provide clearer protections for teenage victims of domestic violence. First


visited Nov. 9, 2010).

89 State Law Report Cards, BREAK THE CYCLE, http://www.breakthecycle.org/content/teen-dating-
vviolence-state-law-report-cards (last visited Nov. 9, 2010).

90 Safety Planning, BREAK THE CYCLE, http://www.breakthecycle.org/content/safety-planning (last visited
Nov. 9, 2010).

91 How to Get a Restraining Order, BREAK THE CYCLE, http://www.breakthecycle.org/content/how-get-
restraining-order (last visited Nov. 9, 2010).
and foremost, New Jersey should provide a statutory definition of what constitutes a dating relationship, while leaving some discretion to courts. New Jersey could implement a descriptive or factor approach to defining what a dating relationship is. A descriptive approach would be a statement defining “what a dating relationship is, what it is not, or both.” However, such an approach is limited because “it is harder for a victim to fall into that specific category. If one aspect of the definition is missing in the relationship, or one excluded aspect seems to be present, the victim will not be able to obtain protection under the statute.” A factor approach such as that stated in *Andrews v. Rutherford* seems to be a better approach, since it is more flexible and allows a court to take a greater look into examining the relationship, yet provides some guidance to judges. The factors listed in *Andrews* seem comprehensive, and can be used as the basis for the new statute.

The inclusion of dating relationship language, however, does not provide clear enough protections for teenage victims. The court should eliminate the requirement that one filing for a restraining order in a non-dating relationship situation must be 18 years or older. New Jersey can model its law after that of Washington D.C., which permits minors 12 years and older to file for an order on their own. Teenagers should be able to file for restraining orders without the consent of a parent or guardian, and also without mandatory parental notification, unless a judge

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92 Largio, *supra* note 10, at 943.

93 Largio, *supra* note 10, at 962.

94 Largio, *supra* note 10, at 964.

95 Largio, *supra* note 10, at 967.

96 N.J. STAT. ANN. § 2C:25-19(d).

finds the teenager is incompetent or otherwise unable to appreciate the consequences of obtaining a restraining order. In a similar vein, the D.C. law grants the court discretion to appoint an attorney on the teenager’s behalf, which would be especially useful in New Jersey since there are no organizations that serve teenage victims of domestic violence. The possibility of a court-appointed attorney “means that an abused teen will be able to avail herself of legal protection with fewer obstacles.”\(^98\) Alternatively, if the legislature will not permit teenagers to file for restraining orders on their own, at the very least they should allow a parent or guardian file on the teenager’s behalf so there is at least an option for legal protection.

The legislature should also be mindful of court costs in updating the new statute, and should ensure that teens will be able to get restraining orders without worrying about financial costs. “Some state statutes provide for a waiving of the fee for domestic violence restraining orders upon a showing of indigence, while other statutes provide that no fee shall be assessed at all or until a judicial hearing. If teens are considered victims of domestic violence in these states, they can obtain domestic violence restraining orders even if they are unable to afford them.”\(^99\) Additionally, since many teens may proceeding with court proceedings without their parents, “[i]n assessing the indigence of teen victims, courts should be prohibited from considering the financial status of her parents since the battered teen may not have access to the funds.”\(^100\)

The new statute should also consider age in fashioning the provisions of the restraining order.\(^101\) Particularly since teenagers must be in school, it may be tricky for them to avoid their

\(^{98}\) Suarez, supra note 11, at 453.

\(^{99}\) Suarez, supra note 11, at 453.

\(^{100}\) Suarez, supra note 11, at 453.

\(^{101}\) Largio, supra note 10, at 978.
abusers if they too are in the same school. The restraining orders, thus, should have very
particularized provisions, since for example stay-away provisions may not be manageable given
the small, enclosed context of schools, and the abuser’s rights to be at the school. The orders
must be fashioned to provide adequate protection to the victim, and so the school will play a
large part in ensuring the enforcement of the order and that the parties are as separated as
possible.

In addition to providing statutory legal protections, the State should continue to educate
teenagers, parents, educators and school administration, attorneys, judges, and law enforcement
officials on the prevalence of teen dating violence Without education, even if the law provides
potential protection to teenagers, enforcement will be impossible and thus ineffective. “Schools
are one institution that has the potential to play a pivotal role in eradicating violence between
adolescents involved in intimate relationships.”

Schools can be integral place for teenagers to seek help and also receive information on domestic violence. Though the current law provides that a place of education may provide domestic violence education, this permissive standard does not go far enough. The law regarding domestic violence education in schools should be reformed to require schools to have domestic violence education in schools. By educating students from a young age, children will learn about healthy relationships and be able to identify when they or their peers are in abusive relationships. Though there may be opposition from people who believe children should not learn such information, similar to people who believe children should not receive sex education in schools, denying children information will not change the fact that teen dating violence occurs. By arming children with information about

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102 Levesque, supra note 15, at 372.
healthy and abusive relationships, at least children will be prepared and hopefully will be able to
protect themselves. Lastly, the judicial system should have attorneys on hand that they can
appoint as guardian ad litems if the teenager wants representation or if the court feels strongly
that it would be in the teenager’s best interest to have legal assistance.\footnote{104 Brustin, \textit{supra} note 4, at 355.}

There may be considerable opposition to teens having access to legal remedies for
domestic violence. Most such arguments center on the desire for parental control as well as the
fear of teenagers’ unchecked autonomy.\footnote{105 \textit{See} Brustin, \textit{supra} note 4, at 352.} However, though parents have the constitutional
right\footnote{106 Meyer v. Neb., 262 U.S. 390 (1923)(holding that the Fourteenth Amendment protects parents’ rights to
bring up children).} to control how they raise their children, the public policy interest in protecting teens from
harm and homicide trumps the needs of parents to control their children’s lives.\footnote{107 Brustin, \textit{supra} note 4, at 352.}

Though the state has a clear interest in protecting the parents’ power in a family unit, “the state’s interest in
protecting the life of the battered teen outweighs the state's interest in maintaining the integrity of
the family unit. . . . A teen's safety and emotional well-being should not be the price society pays
to promote family values.”\footnote{108 Suarez, \textit{supra} note 11, at 469.} As often adults view teenagers as fickle and immature, they may
oppose allowing teenagers to pursue legal access on their own because of fear that they will not
know how to proceed. However, since judges must review and sign restraining orders before
issuing them, the concern of unchecked actions by teenagers is a feeble one.\footnote{109 Brustin, \textit{supra} note 4, at 352.} Furthermore, the
argument that a teen “will act against her best interest is an untenable justification for requiring
Ione Curva

parental consent to a minor's application for a protective order . . . there is little danger that in seeking a restraining order . . . the immature teen will make an impulsive choice contrary to her social and moral interests."\textsuperscript{110} Moreover, the fact that a teenager is able to recognize there is a problem, and brave enough to seek legal help should be applauded, and in most cases will be evidence of a teenager’s maturity.

Additionally, there may be concerns with lowering or eliminating the age requirement for fear of criminal penalties that could ensure for teen abusers. Given that often teens do have problems with adults and authority, and that teens have great access and frequently use technology to contact others persistently, there is a high likelihood that many teen abusers will violate restraining orders and thus face criminal penalties for contempt\textsuperscript{111}, which will be a serious and permanent mark on their criminal records. In response to this concern, one must expect that a teenager who is involved in restraining order proceedings must understand the gravity of the consequences of either consenting to an order or getting an order issued against him. Deterrence of future abuse is a great motivator for issuing a restraining order to any person, and if a potential teenage abuser realizes there are serious legal consequences for abusing his partner, then perhaps that teen will refrain from doing so. Additionally, judges do have discretion\textsuperscript{112} in implementing punishment, and can perhaps order a first time teen offender into counseling rather than into jail. Thus, though there is concern about preserving a teenage abuser’s criminal record and keeping him out of jail, there is (or should be) a greater concern for teenage victims of domestic violence. That a teenage abuser may face criminal penalties should

\textsuperscript{110} Suarez, supra note 11, at 468.

\textsuperscript{111} N.J. STAT. ANN. § 2C:25-31 (2010).

\textsuperscript{112} N.J. STAT. ANN. § 2C:43-8 (2010).
not prevent a teenage victim from obtaining legal protection. It is up to the judge, and perhaps an attorney or parent, to impart upon a teenage abuser the consequences of violating a restraining order, so that no more lives get ruined.

VII. CONCLUSION

New Jersey needs to take pro-active steps to ensure that legal protections are in place for teenage victims of domestic violence. The law must be clear that teenagers can file for restraining orders on their own and eliminate the current age requirement. Additionally the law must also establish guidelines for determining whether a dating relationship exists so that there is some uniformity across New Jersey courts. Judges should use discretion in determining whether parents must be notified, and should have attorneys that are familiar with dating violence cases who can be appointed to cases if a teen either desires an attorney or would clearly benefit from one. The law should also ensure that teenagers will not have to worry about any financial hardship, and also ensure that remedies will be sufficiently tailored given that teenagers spend a considerable amount of time in school. Lastly, domestic violence should be incorporated into school curricula, and training issued for judges, attorneys, and law enforcement. Awareness of the issue is one of the most integral ways to begin tackling the problem of dating violence. Since New Jersey appears to take domestic violence seriously, given its comprehensive protection for adult victims of domestic violence, it should implement these reforms so that its protections are up to par with other jurisdictions, and so that teenagers realize that there is help available and that others take their problems seriously. Providing legal assistance and education to young people hopefully will reduce the prevalence of domestic violence during adulthood. New Jersey needs to shatter the myth that domestic violence does not happen to teenagers, and provide hope and help for the countless teenage victims who must suffer in silence.