

## APPENDIX B

### **COURT-MANDATED/DIRECTED TREATMENT FOR DOMESTIC VIOLENCE PERPETRATORS<sup>1 2</sup>**

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#### **Introduction**

Appendix B<sup>3</sup> provides an overview of issues related to court-mandated/directed treatment for domestic violence perpetrators and is based on a review of the literature and on current expertise in the field of domestic violence.<sup>4</sup>

Washington court-mandated/directed perpetrator treatment programs refer to those programs for domestic violence perpetrators who have been referred either through:

- **Juvenile or adult criminal courts proceedings** where the treatment may be a condition of deferred prosecution, a stipulated order of continuance, or of sentencing; or
- **Civil court proceedings: protection orders, family law, or dependency proceedings** where participating in domestic violence perpetrator treatment may be part of a court

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<sup>1</sup> Appendix B has been adapted from earlier versions of the *Washington State Domestic Violence Manual for Judges* (1997, 2001, 2006) and reflects a review of the literature and research regarding not only “treatment” for DV perpetrators but also of court based interventions such as probation, court reviews, use of court orders both in criminal and civil court proceedings after 2006.

<sup>2</sup> For Appendix B, the terms domestic violence perpetrator and batterer are used inter-changeably to denote those persons who use **a pattern of assaultive and coercive tactics against their intimate partner**. These individuals may or may not have been legally adjudicated for this conduct. .

<sup>3</sup> Appendix B focuses specifically on intimate partner violence. Intimate partner is the most common type of relationship context defined by Washington State statutes (see Chapter 2 legal definitions section). This over view does not cover issues related to perpetrators of non-intimate partner violence (e.g., abuse/violence done to and by other adult household members). Perpetrators of non-intimate partner violence have not been separated out in either treatment programs or in research. Consequently, little is specifically known about effective interventions for the population who assault adult siblings, parents, in-laws, or other non-intimate partner adult household members.

<sup>4</sup> Since the prior edition of the Washington State Domestic Violence Manual was published, there have been few research studies about DV specific court practices, and there are even fewer research studies on outcomes about treatment/ interventions for domestic violence perpetrators. For emerging materials, judges can access <http://www.vawnet.org>, and [www.mincava.umn.edu](http://www.mincava.umn.edu), and <http://www.ncjfcj.org/>; and review the National Institute of Justice website topical publication collection on court responses to domestic violence or for domestic violence perpetrators, at [http://nij.gov/publications/pages/publication-list.aspx?tags=Types of Courts](http://nij.gov/publications/pages/publication-list.aspx?tags=Types%20of%20Courts).

protection order, a condition included in a parenting plan, or a requirement of a child welfare service plan for a parent.

Court-ordered/directed domestic violence perpetrator treatment is recommended by a wide variety of professionals related to the courts:

- prosecutors, defense attorneys;
- child welfare workers, dependency attorneys, CASA, and other child welfare professionals,;
- Family law attorneys, GALS, CASA, and parenting evaluators.

The primary goals of Washington domestic violence perpetrator treatment programs are:

- to increase the safety of domestic violence victims and their children,
- to increase domestic violence perpetrator accountability, and
- to decrease re-occurring abuse<sup>5</sup>.

To make decisions regarding court-mandated treatment, judicial officers are informed not only by the particularities of an individual case and of the court context, but also by their understanding of the following:

1. Purpose of court-mandated/directed treatment for domestic violence perpetrators in Washington,
2. Efficacy of court-mandated/directed treatment for domestic violence perpetrators,
3. Reservations regarding the court's use of court-mandated/directed domestic violence perpetrator treatment,
4. Considerations *before* the court orders domestic violence perpetrator treatment,
5. Assessing perpetrator's suitability/amenability for court-ordered treatment,
6. Special conditions to consider when mandating treatment for a domestic violence perpetrators, and
7. Standards for programs for domestic violence offenders<sup>6</sup>.

## **I. Purpose for domestic violence perpetrator treatment programs (DVPTP<sup>7</sup>):**

The primary goal by statute is *victim safety*, by holding batterers accountable and “facilitating” change in the batterer’s behavior. The purpose of court-mandated/directed treatment for domestic violence perpetrators remain the same whether perpetrators are referred by criminal or civil court proceedings (or are voluntary).

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<sup>5</sup> See, [WAC 388-60-0045](#)

<sup>6</sup> Attachment 1. Summary of the Washington State Domestic Violence Perpetrator Treatment Program Standards.

<sup>7</sup> DVPTP refer to WA state programs. Nationally, the programs are sometimes referred to as Batterer Intervention Programs (BIPS).

“The primary goal of a domestic violence perpetrator treatment program must be to increase the victim's safety by:

- (1) Facilitating change in the participant's abusive behavior; and
- (2) Holding the participant accountable for changing the participant's patterns of behaviors, thinking, and beliefs.” [RCW 26.50.150](#); [WAC 388-60-0055](#).

While the state standards for DVPTP do not focus just on the issues of court-mandated treatment, the policies and procedures outlined do address the practices necessary for the programs to work collaboratively with courts in holding participants accountable (see summary of state standards, attached or the full WAC section [388-60](#).)

## II. Efficacy of Court Ordered Treatment for Domestic violence Perpetrators

Given both lethal and non-lethal damage to families caused by domestic violence, judicial officers, domestic violence survivors, and the community as a whole have been very concerned about the efficacy of domestic violence perpetrator programs since their inception in 1977. Do they work to increase domestic violence victim safety? Do they work to hold domestic violence perpetrators accountable for both the domestic violence and to change perpetrators' pattern of abusive conduct? For which perpetrators? And in what court context?

Efficacy questions are complicated and layered. The research<sup>8</sup> on DVPTP efficacy has been greatly hampered by the lack of outcome studies, by lack of research programs within their court contexts, and by the fact that measures of efficacy are not administered over time.<sup>9</sup> Consequently, the conclusions about efficacy of DVPTP remain sometimes contradictory and more often, inconclusive.

### The Washington State Institute for Public Policy 2013 Report

The summary for the 2013 report from the Washington State Institute for Public Policy, hereinafter “WSIPP report” “[What Works to Reduce Recidivism by Domestic Violence Offenders](#),”<sup>10</sup> makes two problematic assertions:

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<sup>8</sup> “E.W. Gondolf, *The Future of Batterer’s Programs*, 2012, Northeastern University Press, Boston.

<sup>9</sup> See Klein, A., Centerbar, D., Keller, S. and Klein, J. (2014). The Impact of Differential Sentencing Severity for Domestic Violence and All Other Offenses over Abusers’ Life Spans. Report to National Institute of Justice, U.S. Department of Justice, NCJ 244757. In it the cases were followed for 6 years to get sufficient data on re-offenses. available at, <https://www.ncjrs.gov/pdffiles1/nij/grants/244757.pdf>

<sup>10</sup> Miller, M., Drake, E., & Nafziger, M. (2013). *What works to reduce recidivism by domestic violence offenders?* (Document No. 13-01-1201). Olympia: Washington State Institute for Public Policy. Unfortunately, most reports, including this 2013 Washington State Institute for Public Policy studies rely on Meta analysis of the same early DV perpetrator treatment outcome studies. Such repeated meta-analysis of the same, disparate studies remain extremely limited regarding any conclusions that can be drawn. Of the original outcome studies selected for WSIPP meta analysis ( 11 total, 8 of sample were from 1988 and 2003), only 2 (2007, 2008 )was research not reviewed for the 2006 WA Judges Manual. Both those original outcome studies selected by WSIPP as well as the limitations of meta-analysis have been previously and extensively critiqued in multiple peer journals. Yet the WSIPP 2013 report included none of that critique and included simply erroneous statements in Summary about “the Duluth Model” and

(1) the report singles out one specific treatment model as not reducing recidivism (“no effect on domestic violence recidivism”), and  
(2) mischaracterizes the [WAC 388-60](#), Domestic Violence Perpetrator Treatment Program Standards, as requiring the particular treatment model (“...model required by Washington State law”). It is beyond the scope of this appendix to outline the multiple research errors represented in the WSIPP study on efficacy of DVPTP in reducing recidivism by domestic violence criminal offenders. The major flaw of the research study and the report is the author’s attempt to compare the efficacy of different treatment models by measuring recidivism. The data necessary to evaluate the efficacy of different group treatment models is not available in the studies selected by WSIPP. While the current recidivism outcome studies can provide data about modest effects or no effects of DVPTP in general, there is insufficient data at this time to draw conclusions about any one particular model. That remains a future goal for research.

The initial WSIPP 2013 report prompted so many concerns from courts and from domestic violence treatment/research experts that the January 2013 release of the WSIPP report, was accompanied by a response from WSIPP’s collaborative partner, the Washington State Supreme Court Gender and Justice Commission, and with a written response by the Northwest Association of Domestic Violence Treatment Professionals (NWADVTP). WSIPP, throughout that project, received a great deal of critical (and potentially useful) feedback regarding both their research methodology and their reporting of their conclusions. Unfortunately for Washington, WSIPP integrated little to none of the feedback into their final report.

In spite of the multiple concerns raised about the methodology and the report’s overstatement of its conclusions, the WSIPP study has been promoted through presentations at conferences for judicial officers and prosecutors and at a Domestic Violence Symposium as the definitive word on domestic violence perpetrator treatment for Washington (and beyond). Some prosecutors and judicial officers state they no longer refer criminal defendants to Washington State–certified programs “because they do not work.” And even though the WSIPP research did not address populations of domestic violence perpetrators in non-criminal settings, some Washington State parent’s attorneys in family law or dependency proceedings have also insisted that DVPTPs no longer be noted in parenting plans or in child welfare service plans “because the WSIPP 2013 report has shown they do not work.” In addition, WSIPP’s conclusions have been cited by the National Institute of Corrections,<sup>11</sup> stating that BIPS “using the... model do not work.” Rather than prematurely debating about the efficacy of specific treatment techniques for specific batterers or prematurely stating that the positive effect is too small to warrant court-mandated treatment, Washington courts and communities need to use the limited rehabilitation funds to support those batterer intervention programs that (1) do meet state standards, (2) function effectively with the courts, and (3) can work with the full diversity of batterers. Those programs and the court practices that support them should be researched so that both judicial officers and the community can have needed answers to the complex questions regarding efficacy. Programs that offer variety of approaches should be encouraged to become state certified (see section on state standards).

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the Washington State Standards for Domestic Violence Perpetrators. They are not only inaccurate but simply cannot be supported either by the authors own meta-analysis or by a comprehensive review of the literature.

<sup>11</sup> See, <http://nicic.gov/library/027743>.

## Research on Efficacy

There are very few outcome studies over the past 20 years for court-mandated treatment for domestic violence perpetrators within the criminal justice system<sup>12</sup>. They remain inconclusive at best and misleading at worse. Unfortunately, studies,<sup>13 14 15 16 17 18 19 20</sup> including the Washington's<sup>21</sup> research/reports on the efficacy of court-mandated treatment for domestic violence perpetrators, continue to raise more questions about the quality of research methodology than answer questions about outcomes for court-mandated treatment for domestic violence perpetrators.<sup>22</sup>

In particular, it is premature to make any claims, as did the WSIPP 2013 report, about the efficacy of one treatment model versus another, as measured by recidivism studies, especially when there is no consideration of contextual factors (e.g., did the defendant receive the treatment while in prison or while on close supervision for a year or in a community program that had no means to monitor behavior?). It is beyond the scope of this appendix to provide a detailed review of the severe limitations of the research on efficacy.

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<sup>12</sup> And there are no outcome studies for DV perpetrators treatment programs directed by civil, family and dependency court proceedings.

<sup>13</sup> J. C. Babcock and R. Steiner, "The effects of treatment and incarceration on recidivism of battering: A longitudinal study of Seattle's coordinated community response to domestic violence," *Journal of Family Psychology* 13 (1999): 46-59.

<sup>14</sup> L. Bennet and O. Williams, "Controversies and Recent Studies of Batterer Intervention Program Effectiveness," (National Online Resource Center on Violence Against Women (VAWnet), Applied Research Forum, August 2001).

<sup>15</sup> J. Babcock, C. Green and C. Robie, "Does Batterers' Treatment Work? A Meta-Analytic Review of Domestic Violence Treatment," *Clinical Psychology Review* 23 (Pergamon: 2004): 1023-1053, available online at [www.sciencedirect.com](http://www.sciencedirect.com).

<sup>16</sup> S. Jackson, L. Feder, D. Forde, R. Davis, C. Maxwell and B. Taylor, *Batterer Intervention Programs: Where Do We Go from Here?* (National Institute of Justice NIJ Special Report, 2003).

<sup>17</sup> E. W. Gondolf, "Evaluating batterer counseling programs: A Difficult task showing some effects and implications." *Aggression and Violent Behavior* 9 (2004): 605-631.

<sup>18</sup> L. Feder and D. Wilson, "A Meta-Analytic Review of Court Mandated Batterer Intervention Programs: Can We Affect Abusers' Behavior?" *Journal of Experimental Criminology* 1 (Springer, 2005): 239-262.

<sup>19</sup> J. Edleson, *Evidence-Based Practice with Men Who Batter: The Simplicity of Certainty* (presentation at the 49<sup>th</sup> Annual Washington Judicial Conference, 2006).

<sup>20</sup> David Adams, (2003) *Certified Batterer Intervention Programs: History, Philosophies, Techniques, Collaborations, Innovations and Challenges*, FUTURES WITHOUT VIOLENCE, ,Available at [http://www.futureswithoutviolence.org/userfiles/file/Children\\_and\\_Families/Certified%20Batterer%20Intervention%20Programs.pdf](http://www.futureswithoutviolence.org/userfiles/file/Children_and_Families/Certified%20Batterer%20Intervention%20Programs.pdf)

<sup>21</sup> George, T.P. (2013) *Domestic Violence Sentencing and Recidivism*. Washington State Center for Court Research, Administrative Office of the Courts, Olympia, WA.

<sup>22</sup> For a comprehensive examination of the research and issues related to batterer's intervention see "**The Future of Batterer's Programs**, 2012, E.W. Gondolf, Northeastern University Press, Boston. Questions regarding efficacy of programs have been raised by research that uses Meta analysis of the various studies conducted over several years. Unfortunately, it is unclear whether the finding of little or no impact is actually valid since differences in outcomes often are lost when reviewing research with disparate research designs and when studying programs of with differing goals and contexts.

Two examples of the challenges when attempting to draw conclusions regarding any one model of treatment from this research:

- Treatment approaches used in programs studied to date all have elements different from and similar to each other, including the treatment model identified by the Washington study. All approaches have been evolving. Treatment models are not static and it is impossible to make comparative statements particularly from a meta-analysis of such disparate studies. The research/outcomes studies of some programs (not included in WSIPP research) show modest efficacy while others showed none as measured by varying measures of recidivism.
- Change in individual batterers is imprecisely captured in recidivism (measured by official criminal justice records) studies. Domestic violence is a pattern of assaultive and coercive behavior that occurs over time. It is a behavior problem that has a high relapse rate (very similar to substance abuse), but for some, change does occur over time. So measuring recidivism at one point can be very misleading. Some may relapse (recidivism) at one point (during treatment, post treatment, or months after treatment) and then make progress over time with or without additional treatment. If efficacy of a program or court practice is measured by reducing recidivism of domestic violence, then those measures must be captured multiple times over a significant period of time.

Generally, the research indicates that some batterers benefit from treatment, some do not, and for some, the treatment effect of the program is unknown. There appears to be a small but significant benefit from court-mandated treatment that is part of a coordinated community response to domestic violence. A coordinated community response (CCR) is one where the systems having contact with the offender give a consistent message:

- (1) domestic violence is wrong/against the law/harmful to others,
- (2) the perpetrator (not the victim) is responsible for that abusive conduct, and
- (3) the perpetrator is responsible for changing that conduct to become a safe and responsible family member/ citizen.

The CCR must have policies and procedures in place for the systems to work collaboratively and efficiently.

Research<sup>23</sup> indicates that batterers change due to a series of experiences that communicate that domestic violence perpetrators are responsible both for their abusive conduct and for changing that behavior. It is not treatment alone that changes batterers, but treatment programs that are embedded in a variety systems for increasing victim safety and domestic violence perpetrator accountability. For criminal cases, that accountability includes law enforcement, criminal prosecution, adjudicated sanctions, and close court monitoring as well as rehabilitation/intervention programs that promote safety and change. For family, juvenile, and/or dependency court, accountability includes the expectations and practices of the judicial officers, lawyers, GALs, CASA workers, and child welfare workers as well as of the intervention/rehabilitation professionals.

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<sup>23</sup> E. W. Gondolf, *supra* note 9.

## Measuring efficacy is complicated.

- Measuring efficacy of batterers' intervention programs as distinct from efficacy of other parts of the coordinated community response is a complicated and often futile task. Did that batterer change (or not change) because of the program or because of what the judge said in court or what the law enforcement or probation officer did or because of the speed of response to noncompliance? Or did the change occur because of the community-provided safety for the adult victim and the children? Or did the change occur because of all those steps? Or do individual batterers changed for different reasons? Should one part of the response system be included only if it can be proven to be independently a stand-alone reducer of recidivism?
- How is efficacy/success/change defined (e.g., Ceasing the violence, the terroristic tactics, the psychological and economic coercion, the coercive control? Increasing safety of victims and children?)? And then, how is success measured (e.g., by recidivism in the legal system; reports to child welfare; reports to family law courts; by adult victim reports; by third party reports)?
- Is efficacy measured by recidivism the only reason to send an abuser to court-ordered treatment? Is it possible there may be other purposes that treatment may serve in terms of justice making, or in terms of what victims need for increased safety? Minimally, court-directed domestic violence perpetrator treatment is a consequence to domestic violence abusers that shifts, even temporarily, responsibility for conduct to the abuser and not to the victim. It may be that being someplace the domestic violence abuser does not want to be once a week for two to three hours is the most that is going to happen for abusing one's intimate partner. Or at least during domestic violence perpetrator treatment session, the domestic violence survivors have some time to call their support system, rest, or plan next steps. Perpetrator treatment programs may serve a purpose for victims knowing that their partner had an opportunity to get support for changing but passed it up or did not change anyway. This can be important information to the domestic violence victim. Finally, the domestic violence perpetrator treatment programs that check in with victims following requirements of Washington State standards may serve another purpose by assisting victims in thinking about safety of self and children and by referring domestic violence victims to advocacy services.

## Gaps in Research on Domestic Violence Batterer Intervention Programs

While the research is still somewhat fragmented and while some trends about efficacy can only be deduced, there are gaps to be addressed before the research can provide comprehensive and definitive answers on the efficacy question.

- **Effectiveness of the monitoring system** that may be one of the greatest influences on successful outcome of treatment.<sup>24</sup> Research on the effectiveness of various

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<sup>24</sup> A. A. Gerlock, *supra* note 15; E. Gondolf, *supra* note 15.

models of court reviews or probation services<sup>25</sup> (e.g., face to face versus telephone; weekly versus monthly versus every three months) individual sessions versus group sessions, versus administrative monitoring, etc.

- **Models for reviewing compliance by civil courts.**
- **Court practices to increase “readiness factor”** for individuals making significant changes. Successful outcome in treatment may be due in part to the individual’s readiness to make changes. There needs to be more attention to the role of the judge, the defense attorney, the prosecutor, the court monitor, the child welfare worker, or mental health professional in contributing to the readiness of the batterer to make changes.<sup>26</sup> Strategies for holding batterers (and not the victims) accountable for both the abuse and for stopping the abuse may go a long way in promoting readiness to change.
- **Issues of race, class, gender, and sexual orientation as they intersect with treatment and change.**<sup>27</sup> However, few communities can afford to have multiple specialized programs to reach the diversity found in a population of batterers. Wherever possible, specialized domestic violence intervention programs should be implemented and studied. There is much to learn from a consideration of a variety of approaches to implementing the Washington State Standards.

### III. Reservations about the Courts Use of Court Mandated Perpetrator Treatment

Not all the reservations about court-ordered treatment for domestic violence perpetrators relate to the complex issues of efficacy of treatment, but are due to other concerns such as:

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<sup>25</sup> Klein, Andy, et al May 2008 , **Evaluation of the Rhode Island Probation Specialized Domestic Violence Supervision Unit** The full report can be found at: <http://www.ahpnet.com/Misc/Differential-Sentencing.aspx>

<sup>26</sup> For discussion of the impact of the judge’s demeanor on victims of domestic violence, see J. Ptacek, *Battered Women in the Courtroom: the Power of Judicial Responses* (Boston: Northeastern University Press, 1999).

<sup>27</sup> E. Aldarondo and F. Mederos, *Men Who Batter: Intervention and Prevention Strategies in a Diverse Society* (Kingston, NJ: Civic Research Institute, 2002); R.V. Almedia and K. Dolan-Delvecchio, “Addressing Culture in Batterers’ Intervention: the Asian Indian Community as an Illustrative Example,” *Violence Against Women* 5, no. 6 (1999): 654-681; R. Carrillo and J. Tello, eds., *Family Violence and Men of Color: Healing the Wounded Male Spirit* (New York: Springer, 1998); S. S. Doe, “Cultural Factors in Child Maltreatment and Domestic Violence in Korea,” *Children and Youth Service Review* 22, no. 3/4 (2000): 231-236; O. J. Williams, “Treatment for African American Men Who Batter,” *CURA Reporter* 25, no. 3 (1995): 6-10; O. J. Williams and L. R. Becker, “Partner Abuse Programs and Cultural Competence: The Results of a National Study,” *Violence and Victims* 9, no. 3 (1994): 287-296; O. J. Williams, “Group Work With African American Men Who Batter: Toward More Ethnically Sensitive Practice,” *Journal of Comparative Family Studies* 25 (1994): 91-103; O. J. Williams, “Ethnically Sensitive Practice to Enhance Treatment Participation of African American Men Who Batter,” *Families in Society* 73 (1992): 588-95.



- **Victim/child safety:** using perpetrator treatment programs as a substitute for court actions needed to protect the safety of the victim and/or children (jail time, no-contact orders, restitutions, permanent protection orders, restrictions in parenting plans, limitations in visitation, or even termination of parental rights of one parent, etc.).
- **Case management tool:** using perpetrator treatment programs as a calendar management tool to relieve overcrowded court calendars, to overcrowded jails, to avoid developing alternative sentences/intervention services, to manage the lack of intervention services for parents in child welfare system, etc.
- **Inadequate program guidelines:** regarding the safety of the victim and the children, or the number and content of sessions required for the domestic violence perpetrator to attend;<sup>28</sup> or noncompliance; and/or do not meet standards for Washington State programs.
- **Seriousness of domestic violence crimes:** For criminal cases, concern that use of treatment may convey domestic violence crimes are taken less seriously than stranger crimes.
- **Lack of monitoring of batterers:** Perpetrator treatment programs, probation departments, and courts inadequately monitor batterers' participation and progress; or if ordered by civil court proceedings, batterers usually are not monitored at all by the courts.

#### IV. Considerations Before a Court Orders Domestic Violence Perpetrator Treatment

In light of the above concerns, it is important for the court to take a leadership role in the following areas **before** ordering or directing domestic violence perpetrators to attend treatment:

- **Ensuring that the victim's and the children's safety are addressed** through referrals to advocacy services, development of a safety plan, including issuance of case-specific court protective orders *when sought by the victim* in all cases where the batterer is ordered to attend domestic violence perpetrator treatment.
- **Treatment is for rehabilitation, not punishment.** It may be an appropriate alternative sentence combined with other sanctions in criminal cases or as a condition in a civil proceeding. It should be used only in those cases where the courts believe that a focus on rehabilitation is warranted.

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<sup>28</sup> See in this appendix the attachment of a summary the *Washington State Domestic Violence Perpetrator Program Standards*, which provides direction and flexibility in programming for diverse clients.

- **Assessment of the batterer's suitability for court-ordered treatment** (see V below for more detail):
  - to ensure that only those offenders likely to benefit from treatment are referred. Those unlikely to benefit can be held accountable through other means, such as jail time, restitution or fines, or close probation supervision without treatment.
  - to take into account that many perpetrators who appear to be first-time offenders in a criminal case have often committed unreported domestic violence assaults, or have been abusive in other relationships.
  
- **Availability of perpetrator treatment programs in the community.** Determine whether an appropriate Washington State–certified domestic violence perpetrator treatment program exists in the community. These programs specifically are mandated to address issues of victim safety and domestic violence perpetrators’ accountability for changing their patterns of assaultive and coercive behaviors in the context of its root causes. These specialized domestic violence perpetrator programs view the batterer’s conduct (1) as a distinct problem rather than merely as a symptom of other issues (substance abuse, mental health issues, a dysfunctional relationship) and the treatment must address the domestic violence conduct directly, and (2) as being learned in social context and as being used to maintain power and control over domestic violence victims and their children.
  
- **Assurance of adequate monitoring of the batterer’s compliance progress** during the treatment period by the court through a standardize court review process.
  
- **Immediate court response to noncompliance:** Assurance that criminal (or the appropriate civil, family law, or dependency court) proceedings are promptly reinstated if the court determines that a new offense has been committed or that the domestic violence perpetrator is not progressing satisfactorily in the treatment program. This would be done in a variety of ways depending on the court context: criminal, juvenile, family law, or dependency court.

## **V. Assessing Domestic Violence Perpetrator's Suitability and Amenability for Court-Ordered or Court-Directed Treatment**

### **A. Determining Domestic Violence Perpetrator's Suitability for Treatment**

- Does the perpetrator meet the statutory requirements for court-mandated or court-directed treatment?
  
- Does the victim fear reassault by the perpetrator? How dangerous is this batterer? Is there any danger posed to the adult victim or children by ordering the perpetrator to attend a domestic violence treatment program? Will the victim be safe during the batterer’s rehabilitation process?

- Has the batterer previously disregarded court orders?
- Has the perpetrator previously been terminated for unsuccessful completion of a treatment program addressing the violent behavior?

## **B. Assessing Perpetrator's Amenability to Treatment**

Suitability for court-ordered treatment is different from being amenable to treatment. Ordering a perpetrator to attend treatment is inappropriate and a waste of the limited available treatment resources if the domestic violence perpetrator is unable or unwilling to benefit from such a program. In these cases, the court must find other avenues for holding the perpetrator accountable, which may include jail time, work release, limitations in parenting time or in access to children, etc.

When treatment is used primarily as a case management tool (e.g. referring cases not strong enough for full prosecution or as a plea bargain measure or as leverage in family law case), courts run the risk of referring mostly individuals who deny that they committed the conduct or that they are in any way responsible for making changes. These individuals not only do not benefit from the rehabilitation program, but they undermine the program for those who may be more ready for treatment.

### **Factors to consider in evaluating a batterer's amenability to treatment:**

Those who are most appropriate for treatment:

- Acknowledge their abusive behavior.
- Take responsibility for making changes in themselves.
- Do not have a long history of abusing.
- Have access to state certified domestic violence treatment programs.
- Possess language and learning abilities necessary to be successful in the available program.

## **C. Assessment of suitability/amenability by the treatment program:**

- The court may determine that a particular client is appropriate for rehabilitative programs according to the above factors and the criteria established for sentencing or for setting conditions in civil proceedings. However, a court's determination does not guarantee that there are rehabilitative programs available in the community that can provide treatment for all referred domestic violence clients.
- The court's referral is followed by the domestic violence perpetrator treatment program's assessment of the individual regarding the offender's ability and willingness to benefit from the specific program.

- The domestic violence intervention program must retain control over who is admitted to the treatment phase of the program, since only the staff knows the program well enough to know what will be effective with which kind of client.<sup>29</sup>

**D. Non-acceptance by domestic violence perpetrator program:**

- The court should be informed immediately of the rejection and be provided the reasons for non-acceptance.
- The court should give very careful consideration as whether or not the batterer is suitable for any court-ordered treatment. Too often batterers deny responsibility for their conduct and resist becoming engaged in treatment and change, and courts simply pass them from one program to another, consuming both the court's time and the limited rehabilitation program resources of a community. Court referral to treatment should be used only with those batterers who can and want to benefit from it.

**VI. Special Conditions to Consider When Mandating Treatment for a Domestic violence Perpetrator**

**A. Refer to Specialized Domestic Violence Programs for Perpetrators**

The court's order for a domestic violence perpetrator to attend treatment should mandate that the batterer attend a treatment program which specifically focuses on safety of the victim and the accountability of the batterer and for ending the pattern of assaultive and coercive behavior.

**B. Length of Treatment Period**

The maximum period allowed by law should be ordered for treatment since it is difficult to predict how long the rehabilitation process will take with a particular batterer. This approach leads to the lowest rate of recidivism.<sup>30</sup>

There continues to be a consensus among domestic violence experts that a minimum of one year is required for treatment to be effective. If the offender successfully completes treatment sooner, the perpetrator can seek early termination of the court requirements. Experts in treating domestic violence perpetrators opine that battering represents a complex, long-term behavior pattern

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<sup>29</sup> A. Ganley, "Perpetrators of Domestic Violence: An Overview of Counseling the Court-Mandated Client," in *Domestic Violence on Trial: Psychological and Legal Dimensions of Family Violence*, ed. D. J. Sonkin (1987).

<sup>30</sup> D. J. Sonkin, "The Assessment of Court-Mandated Male Batterers," in *Domestic Violence on Trial: Psychological and Legal Dimensions of Family Violence*, ed. D. J. Sonkin (1987).

that is not easily changed through six, twelve, sixteen, or even twenty-six week programs.<sup>31</sup>

**C. Use of No-Contact Orders, Protection Orders**

Criminal courts should consider issuing a criminal court no-contact order in cases where the victim appears to be in danger of intimidation or assault from the perpetrator. (See Chapter 4, Section III for discussion of no-contact orders.) Civil court proceedings may issue protection orders<sup>32</sup> **when sought by adult victims for themselves and/or their children**, and when sought for children by child welfare in dependency proceedings. Criminal no-contact orders and civil protection orders should be time limited with procedures for modification or extension explained to the parties. These can be effective when used in the context of a coordinated community response that responds quickly and decisively to violations of the order.

**D. Co-Occurring Issues: Substance Abuse Issues or Mental Health Issues**

Where the batterer appears to also have a substance abuse problem or a mental health issue, the court should consider ordering concurrent treatment for the identified problems (and in these cases the court orders should be specific about concurrent treatment). Domestic violence, substance abuse, and mental health issues are co-occurring problems that require separate solutions.<sup>33</sup> In jurisdictions where substance abuse and domestic violence programs have collaborated to offer conjoint programs, the substance-abusing batterer can be ordered to complete that comprehensive program. If the batterer has psychiatric or mental health issues, then rehabilitation should address both issues.

**E. Domestic Violence Victims Should Not Be Mandated Into Treatment**

As stated in the Washington State Domestic Violence Perpetrator Program Standards, adult victims should not be required to participate in court-mandated treatment programs intended for perpetrators. Victims may be encouraged to provide input and to attend specialized victim support services, if available in their community, and they should be encouraged to seek services for mental health or substance abuse when appropriate.

**F. Clear Consequences for Perpetrator Noncompliance with Court Orders**

- **Spell out timelines more clearly**, or give an example. Be clear that abusers should not be given multiple chances to be brought into court and make excuses

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<sup>31</sup> A. R. Klein, *Probation/Parole Supervision Protocol for Spousal Abusers* (1989), 86.

<sup>32</sup> DV perpetrator Treatment may also be a condition of an order from a civil court proceeding (included as part of a protection order or part of parenting plan or as part of a service plan with Child Protective Services).

<sup>33</sup> Kaufman, "The Drunken Bum Theory of Wife Beating," *Social Problems* 34, no. 3 (1987): 224.

for not having contacted the program; judges should know how long it takes to get into an appointment in their community and not accept excuses for not having done an intake in a timely matter. Repeated failure to enroll in a program may be interpreted as a signal that treatment may not be a good idea. The court should use its powers to encourage follow-through and impose consequences for failure, including a few days in jail.

- **Spell out consequences:** Any court-ordered treatment should be accompanied by an admonition to the perpetrator that failure to gain admissions, to follow through, and to participate successfully may result in revocation of probation or diversion, and reinstatement of criminal charges, or, in civil proceedings, the appropriate consequences for noncompliance. Perpetrators should be given a limited time to gain admission to treatment programs. The courts should be aware that certified programs are required by the state standards to measure the individual's successful participation and not simply attendance or payment of fees in order to determine participant's status in the program. Therefore, programs may terminate an individual for multiple reasons, including lack of progress, as well as re-offense (of criminal and non-criminal abusive conduct), noncompliance with program rules, and non-payment of fees. Courts will then need to decide how to best hold these perpetrators accountable.

## VII. National and State Guidance for Washington State Standards

National and state experts in treating domestic violence offenders continue to support the following standards for batterers' treatment programs.<sup>34 35</sup>

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<sup>34</sup> This list was adapted originally from the County of Los Angeles Domestic Violence Council's publication, *Batterer's Treatment Program Guidelines* (June 1988). This list emerged from and continues to be modified by the fields of psychology, health care, social work, psychiatry, probation, corrections, and domestic violence. (effectiveness of group work and cognitive behavioral approaches, motivational interviewing, interventions for DV and co-occurring issues, etc).

<sup>35</sup> The WSSIP report reducing all state standards as containing some elements of the...model (and therefore inadequate) fails to recognize the evidence based practices used by the... model and are contained in the WA Standards. Once again WSIPP review of the literature and research is not balanced and the report draws conclusions that simply cannot be supported by the literature and research in the field of DV or in the fields (salient) to changing human behavior.

**A. The program’s philosophy should:**

1. **Define domestic violence as learned and socially sanctioned behavior**, which can be changed by the batterer. Domestic violence (like substance abuse) is a stand-alone behavior problem of the individual, rather than merely as a symptom of an individual’s pathology, a mental disorder, or relationship dysfunction, and requires specialized interventions to produce change.
2. **Define domestic violence as a pattern of assaultive and coercive control that includes physical, sexual, and psychological attacks as well as economic abuse.** Tactics of coercive control may include stalking, isolation, emotional abuse, and threats of violence against victim, self, or others, as well as use of children to control adult victim. It is as a pattern of assaultive and coercive conduct which includes both criminal and non-criminal acts (see discussion of behavioral and legal definitions in Chapter 2).
3. **Hold the perpetrator accountable** for the violence in a manner that does not collude with the perpetrator in blaming the victim's behavior for the violence, or on the batterer's use of alcohol or drugs as the cause.
4. **Have the primary goals of safety and stopping the pattern of assaultive and coercive conduct**, taking priority over keeping the couple together or resolving other relationship issues.

**B. The program components should include:**

1. **Releases of Information:** Clear requirement that assessments for and admission to the program occurs only when the appropriate release of information forms have been completed.
2. **Victim Safety policies/ procedures:**
  - A “limited confidentiality” policy whereby the adult victim is entitled to information from the program regarding the acceptance or rejection of the perpetrator into the program, whether the offender is attending the program, perpetrator progress, termination, cause for termination, and warnings about risk of future violence.
  - Any information provided by the victim to the program must be held in confidence, unless the victim provides written permission to release the information.
3. **Dangerousness Assessments: Initial and ongoing** assessments of the danger posed to the adult victim and children by the domestic violence perpetrator, and

procedures for alerting both the victim and appropriate authorities should the victim's safety become a concern.

4. **Adequate initial assessment of co-occurring issues** that may influence the perpetrator's ability to benefit from treatment (e.g., substance abuse, psychosis, PTSD, organic impairment).
5. **A minimum of one-year accountability** (e.g., minimum of six months of weekly sessions followed by a minimum of six months of once-a-month sessions) to the treatment program, with additional sessions available within the program or through referrals when indicated.
6. **Use of group as the treatment of choice.** This approach decreases the batterer's isolation and dependency on the partner and ensures that the perpetrator is accountable to the group as well as to the community.
7. **Procedures for conducting an ongoing assessment of the batterer's pattern of assaultive and coercive behaviors** throughout the course of treatment, such as informing the perpetrator at the beginning of the program that the victim and others (with appropriate releases of information signed ) will be contacted periodically to assess whether the abusive conduct has stopped.
8. **Requirements that batterers with substance abuse problems** attend domestic violence group treatment substance-free, and to seek concurrent treatment for substance abuse.
9. **Demonstrated ability to submit timely progress reports** to court or court designated monitoring system (the probation department, court reviews, etc.) once a month.
10. **Procedures for reporting any new offense or violations of court orders committed** by a court-mandated client during treatment to appropriate court authorities.
11. **Cultural competencies of program:** Capacities to treat culturally (language, ethnicity, faith, etc.) diverse populations.

### **C. Washington Programs for Domestic Violence Perpetrators: Standards for Referral**

#### **1. Statutory Requirements for Criminal Cases:**

The Statutory Requirements are discussed in Chapter 7, Section VI.



## 2. Statutory Requirements for Civil Proceedings

[RCW 26.50.150](#), which governs domestic violence perpetrator treatment programs, requires that any program that purports to offer domestic violence perpetrator treatment must comply with Washington State certification standards. Various statutes provide for referral to domestic violence perpetrator treatment, including in the context of domestic violence protection orders under [RCW 26.50.060\(1\)\(e\)](#), and cross-reference such orders in other civil proceedings, including dissolutions of marriage, parentage, or non-parental custody cases. [RCW 26.50.025](#).

## 3. Washington Certified Domestic Violence Perpetrator Programs

- **The Washington State Standards for domestic violence perpetrator programs are *not* a “one size fits all” approach.**

There is recurring criticism of the so-called “one size fits all” approach to batterer’s intervention. A careful read of the Washington State Standards reveals that the standards allow for a wide variety of treatment approaches<sup>36</sup> and for individualizing treatment for this diverse population within the general framework. Due to the potentially lethal nature of domestic violence, the state legislature felt it was imperative that guidance be given to ensure public safety. As written, the state standards do not create a uniform system but rather provide that basic framework where victim safety, victim autonomy, and perpetrator accountability, as well as treatment program accountability, are central to effective treatment. The Washington State Standards for Domestic Violence Perpetrator Programs recognize that there are other interventions that may need to be used in lieu of, or in addition to, treatment (jail, close probation, fines, etc.). The Washington State Standards only cover the treatment interventions.

- **The court’s leadership role: refer identified batterers to state-certified domestic violence programs.**
  - Washington established standards for certified batterers’ treatment programs primarily because of the lethal nature of domestic violence. There has been resistance from some judges to referring identified batterers to the certified programs. While there are multiple sources of

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<sup>36</sup> It is particularly flawed that both the 2013 WSIPP report and the George study of court orders and recidivism to negatively characterize (1) WA perpetrator treatment programs as “Duluth like programs”, (2) the State Standards as promoting Duluth model. and (3) the Duluth treatment approaches as being inadequate. Those characterizations go beyond what can be drawn from their research and appear to be based on a misread of the literature. The WA State standards actually allow for a wide variety of treatment approaches within the framework of victim safety and perpetrator accountability, staff training, and best practices for policies and procedures. Other approaches are and can be used. If other programs want to seek certification then they should apply and receive WA state certification.

this resistance, it is important for judges to review carefully their position on this issue.

- Holding batterers accountable for their domestic violence and for changing their behavior is the hallmark of effective perpetrator intervention. People do not change problems they do not think they have. Batterers are always seeking others who will collude with their denial of their responsibility so they do not have to stop their violence and their abusive control of the victims. See Chapter 7, Section VI and Attachment 1 of this Appendix for full discussion of the standards for Washington Certified Domestic Violence Perpetrator Programs.
- **Not recommended:** Traditional anger management, couples counseling, and family counseling are not recommended because of their ineffectiveness in stopping the abusive conduct and their potential for increasing the danger to the victim, their children, and community.

For a current list of Washington State Certified Domestic Violence Intervention Programs, please visit <https://www.dshs.wa.gov/ca/domestic-violence/domestic-violence-perpetrator-treatment>

## Conclusion

While domestic violence evaluations (Appendix A) and treatment for domestic violence perpetrators are important tools, they remain just two of the multiple interventions needed to address domestic violence perpetrators. Domestic violence evaluations, done well, can increase the safety of adult victims and their children. Evaluations (and domestic violence perpetrator treatment) can address the specific issues of batterers and can contribute to the efficacy of the court response by considering the individual issues. Done poorly, they can endanger adult victims, their children, and the community.

Domestic violence treatment alone is not a panacea for stopping domestic violence and it will not work for some individual perpetrators. For treatment programs to be effective they must be embedded in a coordinated community response. The courts need to have a variety of interventions, including sanctions and careful monitoring, to create readiness for change in individual batterers. Since treatment is basically a rehabilitation program for those already abusive, it alone will not alter this widespread social problem. Courts must join with community institutions to communicate new norms of respect and equality in intimate relationships.

## **APPENDIX B: ATTACHMENT 1**

### **Washington State Domestic Violence Perpetrator Treatment Program Standards Summary:**

This summary highlights selected sections of Washington Administrative Code (WAC) 388-60. For the complete chapter, please see: <http://apps.leg.wa.gov/WAC/default.aspx?cite=388-60>.

#### **Authority**

[RCW 26.50.150](#) requires any program that provides domestic violence perpetrator treatment to be certified by the Department of Social and Health Services (DSHS).

- [It](#) includes some minimum qualifications for perpetrator treatment programs and also directs DSHS to adopt rules for standards for such programs.
- The rules and minimum standards for domestic violence perpetrator treatment programs are set forth in [WAC\) 388-60](#).

#### **Scope**

The minimum standards in [WAC 388-60](#) apply to any program that:

- Advertises that it provides domestic violence perpetrator treatment; or
- Defines its services as meeting court orders that require enrollment in and/or completion of domestic violence perpetrator treatment.

#### **Treatment Focus:**

[RCW 26.50.150 \(4\)](#) requires domestic violence perpetrator treatment programs to focus primarily on ending the participant's physical, sexual, and psychological abuse, holding the perpetrator accountable for abuse that occurred and for changing violent and abusive behavior. The program must base all treatment on strategies and philosophies that do not blame the victim or imply that the victim shares any responsibility for the abuse which occurred.

#### **Victim Safety**

[WAC 388-60-0065](#) and [WAC 388-60-0155](#) address issues related to victim safety.

- [WAC 388-60-0065](#) requires domestic violence perpetrator programs to:
  - Notify the victim of each program participant within fourteen days of the participant being accepted or denied entrance to the program that the participant has enrolled in or has been rejected for treatment services.
  - Have written policies and procedures that assess the safety of the victims of program participants;
  - Encourages victims to make plans to protect themselves and their children
  - Inform victims of outreach, advocacy, emergency and safety-planning services offered by a domestic violence victim program in the victim's community.
  - Give victims a brief description of domestic violence perpetrator treatment services, and inform them of the limitations of perpetrator treatment.
- [WAC 388-60-0155](#) requires domestic violence perpetrator treatment programs to treat all information the victim provides to the perpetrator treatment program as confidential.

### **Clinical Intake**

[RCW 26.50.150 \(1\)](#) requires that all treatment must be based upon a full, complete clinical intake including, but not limited to: current and past violence history; a lethality risk assessment; history of treatment from past domestic violence perpetrator treatment programs, a complete diagnostic evaluation; a substance abuse assessment; criminal history; assessment of cultural issues, learning disabilities, literacy, and special language needs; and a treatment plan that adequately and appropriately addresses the treatment needs of the individual.

### **Group Treatment Required**

[RCW 26.50.150\(3\)](#) requires participants to participate in group sessions unless there is a documented, clinical reason for another modality.

### **Minimum Treatment Period**

[WAC 388-60-0255](#) specifies that the minimum treatment period for domestic violence perpetrator treatment program participants is the time required for the participant to fulfill all conditions of treatment set by the perpetrator treatment program.

- [WAC 388-60-0255 \(2\)](#) requires perpetrator treatment programs to require participants to satisfactorily attend treatment for at least twelve consecutive months.
- [WAC 388-60-0255 \(3\)](#) requires perpetrator treatment programs to require participants to attend a *minimum* of twenty-six consecutive weekly same gender group sessions, followed by monthly sessions until twelve months are complete

### **Substitute Treatment Prohibited**

[RCW 26.50.150\(3\)](#) prohibits substituting other therapies, such as individual, marital, or family therapy, substance abuse evaluations or therapy, medication reviews, or psychiatric interviews; however, some of the above may occur concurrently with the weekly group treatment sessions.

[WAC 388-60-0095\(5\)](#) prohibits marriage or couples' therapy during the first six months of perpetrator treatment and allows such therapy only where the victim has reported that participant has ceased engaging in violent and/or controlling behavior.

### **Impact of Domestic Violence on Children**

[WAC 388-60-0245\(5\)](#) requires domestic violence perpetrator treatment programs to include an educational component that informs participants on the impact of domestic violence on children and the incompatibility of domestic violence and abuse with responsible parenting.

### **Participant Contract**

[WAC 388-60-0225\(2\)](#) requires domestic violence perpetrator treatment programs to have participants enter into a contract in which the participant agrees to:

- Cooperate with all program rules;

- Stop violent and threatening behaviors;
- Be non-abusive and non-controlling in relationships;
- Develop and adhere to a responsibility plan;
- Comply with all court orders;
- Cooperate with the rules for group participation; and
- Sign all required releases of information.

Violation of contract rules may be grounds for the domestic violence perpetrator treatment program to terminate the participant. If a perpetrator treatment program chooses not to terminate the participant, the program must note the noncompliance in the client's progress notes and report the noncompliance to the court and the victim. See [WAC 388-60-0295\(4\)](#).

### **Required Releases of Information**

To facilitate communication necessary for periodic safety checks and case monitoring, [RCW 26.50.150\(2\)](#) requires domestic violence perpetrator treatment programs to require the perpetrator to sign the following releases:

- For the program to inform the victim and victim's community and legal advocates that the perpetrator is in treatment with the program, and to provide information, for safety purposes, to the victim and victim's community and legal advocates;
- To prior and current treatment agencies to provide information on the perpetrator to the program; and
- For the program to provide information on the perpetrator to relevant legal entities including lawyers, courts, parole, probation, child protective services, and child welfare services.

### **Satisfactory Completion**

[WAC 388-60-0265\(1\)](#) requires domestic violence perpetrator treatment programs to have written criteria for satisfactory completion.

[WAC 388-60-0255\(1\)](#) provides that satisfactory completion of treatment is not based solely on participating in treatment for a certain period of time or a number of sessions, but is based on the participant fulfilling all conditions set by the domestic violence perpetrator treatment program.

After successful completion by a program participant, [WAC 388-60-0275\(1\)](#) requires the domestic violence perpetrator treatment program to notify:

- Courts having jurisdiction, if the participant is court-mandated to attend domestic violence perpetrator treatment; and
- The victim of the program participant, if feasible.

### **Discharge of Participants Who Do Not Complete Treatment**

[WAC 388-60-0295\(1\)](#) requires perpetrator treatment programs to have guidelines for discharging participants who do not satisfactorily complete the program.

- [WAC 388-60-0295\(2\)](#) provides that a perpetrator treatment program may terminate a participant from treatment for non-compliance with the participant contract.

After discharge of a participant who does not complete domestic violence perpetrator treatment, [WAC 388-60-0305\(4\)](#) requires treatment programs to notify the following parties within three days of termination of the participant:

- Courts having jurisdiction, if the participant is court-mandated to attend domestic violence perpetrator treatment;
  - The participant's probation officer, if any; and
  - The victim of the program participant.
- If a program chooses not to discharge a participant who has not complied with the domestic violence perpetrator treatment contract, a court order, a probation agreement, or group rules, the program must note the re-offense and/or noncompliance in the client's progress notes, reports to the court, and reports to the victim (if feasible).
    - The program must state in the client's record the program's rationale for not terminating the participant, and state what corrective action was taken. [WAC 388-60-0295\(5\)](#).

### **Certification/Recertification**

DSHS certifies domestic violence perpetrator treatment programs; DSHS does not issue an individual professional domestic violence perpetrator treatment credential to individuals.

- Requirements for obtaining initial certification can be found in [WAC 388-60-0435](#) through [388-60-0495](#).
- Certified domestic violence perpetrator treatment programs must apply for recertification every two years. Requirements for recertification can be found in [WAC 388-60-0505](#) through [388-60-0545](#).

### **Domestic Violence Perpetrator Treatment Staff Requirements**

Requirements for domestic violence perpetrator direct treatment staff can be found in [WAC 388-60-0315](#) through [WAC 388-60-0425](#). Before staff can provide domestic violence perpetrator treatment services for a certified program, the certified program must submit documentation to DSHS that verifies that the proposed perpetrator treatment staff meets the required minimum qualifications in these sections.

This summary was prepared on May 6, 2014 by:

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