

CHAPTER 1

SCOPE AND PURPOSE OF THE DOMESTIC VIOLENCE BENCH GUIDE FOR JUDGES

The *Domestic Violence Manual for Judges*, is a product of the Washington State Supreme Court Gender and Justice Commission.¹

The manual is designed for two purposes:

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

Although emphasis is given to the role and responsibilities of the judge, some portions of the manual will also be of interest to court clerks and others who have administrative responsibilities.

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

I. CHAPTER OVERVIEW

Chapter	Title and Short Description
Chapter 1	Scope and Purpose of the Domestic Violence Manual for Judges – Includes manual overview, effective dates, and authorship.
Chapter 2	Domestic Violence: The What, Why, and Who, as Relevant to Criminal and Civil Court Domestic Violence Cases –

¹ The 2015 edition of this guide was a project supported by sub-grant No. F15-31103-315 awarded by the state administering office for the STOP formula Grant Program. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the state of the U.S. Department of Justice, Office on Violence Against Women. Grant funds are administered by the Office of Crime Victims Advocacy, Community Services and Housing Division, Washington State Department of Commerce.

Updates made in 2021 were supported by Subgrant No. F19-31103-130 awarded by the state administering office for the Office on Violence Against Women, U.S. Department of Justice's STOP Formula Grant Program. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the authors(s) and do not necessary reflect the views of the state or the U.S. Department of Justice.

The 2023 updates to this guide were supported by Subgrant No. F22-31103-130 awarded by the state administering office for the Office on Violence Against Women, U.S. Department of Justice's STOP Formula Grant Program. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the state or the U.S. Department of Justice.

Chapter	Title and Short Description
	Discusses the realities of domestic violence in terms of the current knowledge about behavioral descriptions of battering as a pattern of control, the underlying causes of domestic violence, the characteristics of perpetrators, and the issues related to victims.
Chapter 3	The Legislative Response to Domestic Violence – Provides an overview of the various legal responses to domestic violence. The legislative framework is described, as well as the types of orders that are available for the protection of the domestic violence victim.
Chapter 4	Criminal Pre-Trial Issues – Provides a detailed review of the most common pretrial issues that arise in domestic violence cases, including release orders under CrR 3.2 and the imposition of no-contact orders under RCW Chapter 10.99 . Discovery issues are also discussed.
Chapter 5	Criminal Trial Issues – Covers those trial issues concerned with the presence and treatment of the victim, including procedures for compelling the presence of the victim, continuances to secure the presence of the victim, dismissals when a victim fails to appear, substitutes for live testimony when the victim is not present (including deposition testimony), dismissals, and jury issues.
Chapter 6	Evidentiary Issues – Covers selected evidentiary trial issues, such as privileged communications, hearsay, children as witnesses, and expert witnesses including discussion of the battered woman syndrome.
Chapter 7	Criminal Case Dispositions – Discusses case dispositions. Pretrial options, such as diversion and Stipulated Orders of Continuance, are discussed, as well as sentencing under both the Sentencing Reform Act (SRA) and non-SRA procedures, and statutory requirements for domestic violence treatment providers.
Chapter 8	Civil Protection Orders – Provides an overview of the purpose and effectiveness of protection orders, statutes, and case law regarding the court’s role in enforcement of protection orders. The legal responses to domestic violence, legislative framework, and policy issues for the issuance, modification, and extension of protection orders are discussed, as well as full faith and credit and firearms surrender.

Chapter	Title and Short Description
Chapter 9	JIS Database – Provides an overview of the Judicial Information System (JIS) and the Judicial Access Browser System (JABS), administered by the Administrative Office of Courts (AOC) and relied upon by courts to act as the statewide Domestic Violence Database.
Chapter 10	Parenting Plans – Introduces purpose and objectives of parenting plans in domestic violence cases. Included in the section are residential placement and residential time considerations, evidentiary issues, court procedures when issuing orders, and use of mediation.
Chapter 11	Child Abuse and Neglect Cases Where Domestic Violence is a Factor – Discusses the considerations for the court in determining the best interest of the child in domestic violence proceedings, termination of parental rights, and coordination of multiple cases. A summary of the Washington State Department of Social and Health Services Social Worker Domestic Violence Practice Guide is included.
Chapter 12	Dissolution of Marriage – Reviews Washington dissolution statutes and domestic violence, and discusses property division, maintenance, attorney fees, child support, and bankruptcy issues.
Chapter 13	Domestic Violence and Tribal Courts – Describes Native American communities on and off reservations, Native American legal systems, and the interplay of both with state communities and legal systems; reviews unique characteristics of domestic violence, victims, and perpetrators in tribal communities; identifies state and federal full faith and credit laws and court rules relating to enforcement of protection orders; describes perceived difficulties of and solutions to enforcement of protection orders between tribes and state agencies; explains criminal jurisdiction in Indian Country; describes child custody and visitation issues; provides an appendix which includes lists of resources including culturally appropriate providers, texts for further reading, texts of the Violence Against Women Act §2265, CR 82.5, Indian Civil Rights Act, Washington State Attorney General Opinion of State Obligation to Enforce Protection Orders Issued by the Courts of Other States or Tribal Courts, a chart of criminal jurisdiction in Indian Country, terminology, a map of tribes in Washington, and a bench card.

Chapter	Title and Short Description
Appendix A	Domestic Violence Evaluations and Assessments – Contains suggested practices for interviewing, evaluating, and assessing the lethality risk of domestic violence.
Appendix B	Court Mandated Treatment for Domestic Violence Perpetrators – Provides an overview of court-mandated treatment for domestic violence offenders based on current psychological and rehabilitation research.
Appendix C	Federal Domestic Violence Law – Contains a summary of the Gun Control Act and the Violence Against Women Act.
Appendix D	Domestic Violence in Lesbian, Gay, Bisexual, and Transgender (LGBTQ) Relationships – Contains an overview on issues and lists resources for addressing domestic violence in the LGBT communities.
Appendix E	Title 26 Family Law Guardian Ad Litem Guidebook and Training Curriculum – Contains guidelines addressing domestic violence for individuals appointed as guardian’s ad litem in family law (Title 26) matters.
Appendix F	Domestic Violence: The Overlap Between State Law and Immigration Law – Presents an overview of cultural and immigration concerns with domestic violence law. Includes a synopsis of issues that arise in the confluence of domestic relations law and immigration law, and immigration law and criminal proceedings.
Appendix G	The Hague Convention on International Child Abduction: A Child’s Return and the Presence of Domestic Violence – Discusses how the Hague Convention on International Child Abduction, and its enabling statute, have been applied in courts in Washington State and around the country.
Appendix H	Abusive Litigation and Domestic Violence Survivors – Information about how domestic violence abusers use the legal process to harass, intimidate, and attempt to control victims.
Appendix I	<i>Domestic Violence Manual for Judges</i> History and Authorship
Appendix J	Guidelines for Domestic Violence, Sexual Assault, Stalking, and Anti-Harassment Protective Orders

II. EFFECTIVE DATE

With the exception of Chapters 1, 3, and 8, which were updated in November 2022, and Chapter 9, which was updated in May 2023, the statutes, rules, and case law in the *Domestic Violence Manual for Judges* were updated by various chapter authors in 2013 and 2014. The reader is advised to check for amendments, case law updates, or other changes in the law after these publication dates.

III. PRODUCTION AND AUTHORSHIP

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

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

The *Domestic Violence Manual for Judges*, is provided by the Gender and Justice Commission to Washington State judicial officers and law libraries. The manual is available on the Washington Courts website at www.courts.wa.gov. Individual copies may be purchased from the Administrative Office of the Courts, PO Box 41170, Olympia, WA 98504-1170, (360) 753-3365.

The Gender and Justice Commission expresses appreciation to the individuals who contributed their time and expertise to writing and revising the *Domestic Violence Manual for Judges*. A history of the manual and a list of individuals who contributed to it is contained in Appendix I.

IV. UPDATES AND REVISIONS

Updates and revisions to the *Domestic Violence Manual for Judges* are coordinated by the Gender and Justice Commission's [Domestic & Sexual Violence \(DSV\) Committee](#).