DATING VIOLENCE IN KENTUCKY: WHY OUR DOMESTIC VIOLENCE LAWS DESERVE AN UPDATE

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I. INTRODUCTION

Mary Byron’s young life ended tragically in 1993 when her ex-boyfriend shot and killed her in Louisville, Kentucky.1 After serving jail time for assaulting Mary, he was released on bail without Mary’s knowledge.2 One night, while waiting for her car to warm up after work in the Mall of St. Matthews’ parking lot, he shot her through her car window.3 She died on her twenty-first birthday.4

Mary’s story is tragic. Thankfully, her family and friends took her side. Rather than remain silent, their actions led to the implementation of Victim Information and Notification Everyday (VINE) technology, which alerts victims when their abusers are released from prison.5 In December 1994, Jefferson County implemented this technology, the first electronic notification system of its kind.6 In 1996, the Kentucky Department of Corrections implemented the same type of system on a state level.7

In 2009, another horrific act of dating violence occurred. Stephen Nunn, a former Kentucky legislator, began stalking his ex-fiancée, Amanda Ross, after their relationship quickly went downhill after their engagement.8

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2 Id.
3 Id.
4 Id.
6 Kentucky Statewide Vine Resources, supra note 5.
7 Id.
This violent stalking ended when Stephen shot and killed Amanda outside of her apartment.9

Amanda’s friends and family, frustrated by their lack of legal remedy after the pattern of stalking materialized, advocated for Amanda’s Law.10 Amanda’s Law allows judges to order those who violate protective orders to wear Global Positioning Satellite (GPS) monitoring devices so that victims are aware of his or her abuser’s location at all times.11 Once again, Amanda’s family and friends chose to take sides rather than to remain silent. They too sided with victims, and the result was beneficial to all.

Out of these two tragedies, Kentucky enacted revolutionary laws pertaining to domestic violence. However, a new domestic violence epidemic, known as dating violence, is on the rise.12 Yet, Kentucky does not allow those who are in a dating relationship to obtain civil protective orders.13 Instead of waiting on another tragic incident to inspire change, the Kentucky Legislature must act now to allow those who are dating to obtain civil protective orders.

Mary Byron and Amanda Ross are only two of the many victims of dating violence across the Commonwealth of Kentucky. In fact, women ages sixteen to twenty-four are three times more likely to be victimized than any other age group.14 Though civil protective orders were not at issue in the above situations, these stories are two examples of horrific incidents of domestic violence that sparked change in the Kentucky Legislature. In order to continue to protect women from dangerous situations, it is imperative that the Kentucky Legislature adopt legislation to include dating partners among those who may obtain a civil protective order.

9 Id.
11 MacDonald, supra note 10.
13 See KY. REV. STAT. ANN. §§ 403.720, 403.725 (West, Westlaw through 2014 legislation).
At the 2014 Regular Session, a young woman from Kentucky shared her experience of dating violence. After spending the night out on a date with a friend, they returned to the dorms. Unfortunately, the tone of the date quickly changed from friendly to dark. The tragic result was date rape.

Stories such as this one prove that dating violence is a real issue. Because many states have recognized this problem, numerous legislatures have enacted statutes to prevent dating violence from occurring. In fact, in his 2014 State of the Commonwealth Address, Kentucky Governor Steve Beshear cited Kentucky as the only state that does not offer dating couples a form of civil protection. Many states have enacted legislation that allows dating couples to obtain civil protective orders, or a version of a civil protective order, if one of the partners is physically assaulted, sexually assaulted, or placed in fear of a physical or sexual assault.

Unfortunately, Kentucky has yet to adopt any type of legislation to protect dating couples. Instead, Kentucky only allows married couples or formerly married couples, couples that live together or formerly lived together, and couples with a child to seek a protective order.

However, lawmakers and advocates have been working hard to make dating violence bills a reality. Kentucky lawmakers have been trying for several years to pass a bill that would include dating couples in the definition of those who may obtain a civil protective order. Despite these efforts, the Kentucky Legislature has found multiple reasons why expanding the class of individuals who may obtain a civil protective order

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16 Id.
17 Id.
18 See infra Part III.D.
20 See infra Part III.D.
21 See Ky. REV. STAT. ANN. §§ 403.720, 403.725 (West, Westlaw through 2014 legislation).
23 Id.
may prove problematic. Others argue that expanding the class of individuals who may obtain a protective order will create some significant burdens to the state that must be addressed; ultimately, however, the impact that dating violence has on society justifies this additional cost. While it is true that passing legislation may increase costs in the short term by increasing court dockets, taking care of this issue ultimately results in healthier relationships and more productive citizens—a worthy cause in the long run.

This Note will present the reasons why it is necessary to include dating couples in the class of those who may obtain a civil protective order. Part II will define dating violence in the context of domestic violence, will explain the process of obtaining a civil protective order, and will examine the history of domestic violence law in Kentucky. Part III explains the gravity of the dating violence epidemic, the effectiveness of protective orders, and the arguments against amending Kentucky’s law. Part IV will look at Kentucky’s proposed solution to the dating violence problem as well as other steps that lawmakers must take to end domestic violence. Finally, this Note will explain why the benefits of amending Kentucky’s law outweigh its costs.

II. HISTORY

A. What Is Dating Violence?

Domestic violence is defined as a pattern of abusive behaviors used to exert power and control over a partner. The abuse may be physical,

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24 See infra Part III.C.
25 Quiggins, supra note 22.
26 Id.
27 While domestic violence does not discriminate, generally speaking women are more likely to be the victims (and men more likely to be the perpetrators) of dating violence. See SHANNAN CATALANO, U.S. DEP’T OF JUSTICE, BUREAU OF JUSTICE STATISTICS, NCJ 239203, INTIMATE PARTNER VIOLENCE, 1993–2010, at 1 (2012), available at http://www.bjs.gov/content/pub/pdf/ipv9310.pdf. In fact, from 1994 to 2010, approximately four in five victims of intimate partner violence were female. Id. Therefore, though revising Kentucky’s law would protect both men and women, this Note will use statistics regarding female victims.
emotional, sexual, economic, psychological, or digital.\textsuperscript{29} However, domestic violence is not necessarily just between married couples or partners. As the United States Department of Justice defines it, domestic violence can happen between intimate partners who are “married, living together, or dating.”\textsuperscript{30} The Centers for Disease Control and Prevention (CDC) now refers to domestic violence as intimate partner violence, thus including those who were not previously included in the traditional definition of domestic violence.\textsuperscript{31}

Dating violence has become such an issue that in September 2011, Vice President Joe Biden launched his “1 is 2 Many” initiative—an initiative aimed at informing young people about the realities of dating violence in an effort to reduce dating violence and sexual assault among teens.\textsuperscript{32} To further awareness of the dating violence issue, President Barack Obama has declared, on more than one occasion, February as National Teen Violence Awareness and Prevention Month.\textsuperscript{33}

In addition to being taken up as a cause by Vice President Biden and recognized on many occasions by Presidential Proclamation, the problem of dating violence has now been recognized by the CDC as negatively affecting the mental health and school performance of teenagers.\textsuperscript{34} Additionally, the CDC recognizes that unhealthy “relationships can start early and last a lifetime.”\textsuperscript{35}

However, domestic violence is not only an issue for teens and young adults. According to Darlene Thomas, Director of GreenHouse17, a Kentucky nonprofit organization, “many older women find themselves in a[n] abusive or violent dating situation after the death of a spouse or

\textsuperscript{29} Id.
\textsuperscript{30} Id.
\textsuperscript{32} About Vice President Biden’s Efforts to End Violence Against Women, THE WHITE HOUSE, http://www.whitehouse.gov/1is2many/about (last visited Mar. 8, 2015).
\textsuperscript{35} Id.
GreenHouse17 is a nonprofit organization dedicated to helping intimate partner violence victims rebuild their lives in Kentucky. According to Thomas, many of the women seeking help at GreenHouse17 find themselves there because they cannot get a civil protective order. These women cannot get a protective order because their dating status generally precludes them from meeting the standards for a civil protective order.

B. The Process of Obtaining a Civil Protective Order

In Kentucky, a person alleging to be the victim of domestic violence and abuse may file a petition asking the court for a civil protective order. Under current Kentucky law, “domestic violence and abuse” is defined as “physical injury, serious physical injury, sexual abuse, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault between family members or members of an unmarried couple.” A civil protective order “is a court order restricting one party from contacting or harming another party.”

In Kentucky there are two types of civil protective orders: domestic violence orders and emergency protective orders. In order to obtain a domestic violence order, an individual must file a petition in the district court of the county of her residence. If the petitioner feels as if she is in immediate danger, she may also file for an

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38 See Wright, supra note 36.

39 See id.

40 See KY. REV. STAT. ANN. § 403.725(1) (West, Westlaw through 2014 legislation).

41 Id. § 403.720(1).


43 See KY. REV. STAT. ANN. §§ 403.740, 403.750 (Westlaw) (domestic violence orders and emergency protective orders, respectively).

44 Id. § 403.725(1).
emergency protective order.\textsuperscript{45} An emergency protective order \textit{must} be issued if the court agrees that an immediate danger exists, even without a full hearing and without the abuser present.\textsuperscript{46} On the other hand, an emergency protective order is not enforceable until it has been served on the respondent, or until the respondent has been orally notified by police that an emergency protective order has been issued.\textsuperscript{47} A law enforcement officer may continue to attempt to serve an emergency protective order for up to six months.\textsuperscript{48} If the officer is unable to locate the respondent, the emergency protective order will be dismissed without prejudice, meaning the petitioner has the opportunity to file again.\textsuperscript{49}

Regardless of whether a judge grants an emergency protective order, a domestic violence order hearing must be scheduled within fourteen days of the original petition.\textsuperscript{50} At the hearing, both the petitioner and the respondent will have an opportunity to tell their side of the story.\textsuperscript{51} After the hearing, the court may issue a domestic violence order.\textsuperscript{52} Like an emergency protective order, a domestic violence order is not enforceable until it is served on the abuser.\textsuperscript{53} A domestic violence order may last for no more than three years.\textsuperscript{54} But the victim may petition the court to extend the order for an additional three years, and the number of times the court may grant an extension is not limited.\textsuperscript{55}

Unlike filing a criminal charge, when filing for a domestic violence order, the petitioner is not asking the court to send the respondent to jail.\textsuperscript{56} Instead, the petitioner is only asking the court to protect the petitioner from the respondent.\textsuperscript{57} However, if the respondent violates the civil protective

\footnotesize{
\begin{itemize}
    \item Id. § 403.740.
    \item Id. § 403.740(1).
    \item Id. § 403.735(6).
    \item Id. § 403.740(a).
    \item Id. § 403.740(b).
    \item Id. § 403.740(6).\textsuperscript{40}
    \item See id. § 403.745.
    \item Id. § 403.750(1).
    \item Id. § 403.735(6).
    \item Id. § 403.750(2).
    \item See Waal, supra note 42, at 54.
    \item See id.
\end{itemize}
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order, he may be arrested and sent to jail. A protective order may prohibit a respondent from initiating any contact or communication with the petitioner that is not court-ordered, from committing further acts of violence, from committing acts that further damage property, or from coming within a certain distance of the petitioner.

A criminal complaint, instead of being brought by the petitioner, will be brought by the state. In this scenario, the abuser will be charged with a crime. Even if the victim decides not to press charges, the state may still choose to bring criminal charges against the abuser. Additionally, in this scenario, the victim is only a prosecutorial witness. If the state chooses not to proceed with the case, the victim has no say in this choice.

C. The History of Domestic Violence Laws in Kentucky

Historically, Kentucky has been revolutionary in enacting domestic violence laws. When domestic violence began to emerge as a national issue in the early 1980s, Kentucky was one of the first states to enact legislation to protect domestic violence victims. In 1984, Kentucky enacted the Domestic Violence and Abuse Act (KDVAA), allowing a victim of domestic violence to obtain a civil protection order from the court.

As codified, the purpose of KDVAA is:

(1) To allow persons who are victims of domestic violence and abuse to obtain effective, short-term protection against further violence and abuse in order that their lives will be as secure and as uninterrupted as possible;
(2) To expand the ability of law enforcement officers to effectively respond to situations involving domestic violence and abuse so as to

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58 See KY. REV. STAT. ANN. § 403.763 (Westlaw) (providing that a person who violates a domestic violence order commits a Class A misdemeanor).
59 See id. § 403.740.
61 See id. at 1865–67.
62 See id.
63 See id.
prevent further such incidents and to provide assistance to the victims;
(3) To provide peace officers with the authority to immediately apprehend
and charge for violation of a protective order any person whom the officer
has probable cause to believe has violated an order of protection issued
under KRS 403.740 or 403.750 and to provide courts with the authority to
conduct contempt of court proceedings for these violations.66

Since the enactment of KDVAA, Kentucky has only expanded the
class of individuals who may obtain a protective order twice. In 1988,
Kentucky amended the law to include former spouses.67 Again in 1992,
Kentucky amended its definition of domestic violence to include members
of an unmarried couple.68 As the law currently stands, “‘member of an
unmarried couple’” is defined to include, in addition to spouses and former
spouses, “each member of an unmarried couple which allegedly has a child
in common, any children of that couple, or a member of an unmarried
couple who are living together or have formerly lived together.”69

While these strides have been revolutionary and well-intentioned, this
protection has only been afforded to a certain class of individuals. When
the domestic violence statutes were enacted in 1984, domestic violence
orders were only available to individuals with a family relation, such as a
“spouse, parent, child, stepchild or any other person related by
consanguinity or affinity within the second degree.”70 It is for these reasons
that, in recent years, Kentucky activists and lawmakers have been pushing
to include couples in dating relationships within the statute.71

The first attempt at including couples in dating relationships within the
definition of those who could file for a protective order took place in
2007.72 The language in this amendment included factors to determine
whether a couple could be considered within a dating relationship for
purposes of obtaining a domestic violence order. These factors were

443, 444.
69 KY. REV. STAT. ANN. § 403.720(4) (Westlaw).
71 See Quiggins, supra note 22.
borrowed from the federal Violent Crimes Control and Law Enforcement Act, and included whether the relationship was of an intimate nature, the length of the relationship, the frequency of interaction, and the type of interaction between the couple. However, the bill also specified that this would not apply to a casual acquaintance.

In 2011, a new amendment was proposed. This time, the same language was considered, with the addition of only allowing those eighteen years or older in a dating relationship to file for a domestic violence order. The Kentucky House of Representatives approved the bill by an overwhelming majority. However, it was declined a hearing by the Senate Judiciary Committee due to the fact that there were “a lot of mixed feelings about it,” according to then-Senator Tom Jensen.

In 2013, lawmakers once again proposed a change, this time including more specific factors that could be used to ascertain whether or not a couple could indeed be considered to be members of a dating relationship. The proposed statute would define dating relationship as one of a “romantic or intimate nature.” It would also include four factors a court should consider when determining whether the relationship is of a romantic or intimate nature. These factors included: (1) the expectation of affection between the two parties; (2) the frequency of interaction over time; and (3) whether the relationship existed within the past three years.

Additionally, lawmakers removed the language allowing only those eighteen and older to file for a protective order. In its place, the sponsors included the following provision:

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74 H.B. 396.
75 Id.
77 Id.
79 Id.
80 Id.
82 Id.
83 Id.
84 Id.
85 Id.
If the petitioner or respondent is a minor, the court shall inquire as to whether the parties attend school in the same public school district. If they do, the court shall impose conditions having the least disruption in the administration of education to the parties while providing the maximum protection to the petitioner.86

The bill passed the Kentucky House of Representatives.87 It then passed the Senate Judiciary Committee.88 However, the bill was never called on for a full vote by the majority leader of the Senate.89

Once again, on January 8, 2014, the bill went to the Kentucky Legislature as House Bill 8, sponsored by Judiciary Chairman John Tilley, a Democrat from Hopkinsville.90 This time the bill proceeded with the endorsement by Kentucky Governor Steve Beshear.91 In addition, law enforcement organizations, including the Kentucky County Attorneys Association and the Kentucky Association of Chiefs of Police, endorsed the bill.92 The language of House Bill 8 was clarified significantly after receiving feedback in 2013.93 House Bill 8 defined dating more specifically. The relevant provisions read as follows:

(4) “Member of an unmarried couple” means each member of an unmarried couple which allegedly has a child in common, any children of that couple, [or] a member of an unmarried couple who are living together or have formerly lived together, or persons who are or have been in a dating relationship; and

(5) “Dating relationship” means a relationship between individuals who have or have had a relationship of a romantic or intimate nature. The following factors may be considered in determining whether the relationship between the petitioner and the respondent is currently or was

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86 Id.
87 Id.
88 Id.
89 Id.
91 See Beshear, supra note 19.
93 Id.
previously a romantic or intimate relationship:
(a) The nature of the relationship was characterized by the expectation of affection between the parties;
(b) The frequency and type of interaction between the persons involved in the relationship included the fact that the persons have been involved over time and on a continuous basis during the course of the relationship;
(c) The relationship existed within the past three (3) years; and
(d) The term does not include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context.\(^{94}\)

Though the bill passed the Kentucky House of Representatives, it was sent back to the committee for two minor amendments on January 15, 2014, in order to clarify how school districts would proceed if students were involved and to clarify the length of dating relationships covered by the bill.\(^{95}\) Ultimately, the bill died in the Kentucky Senate.\(^{96}\)

In 2015, proponents of this bill took a new approach to combat criticisms of previous drafts. Rather than adding a class of victims that may be protected under the original statute, drafters wrote a new chapter, naming protective orders “interpersonal protective orders,” or IPOs.\(^{97}\) According to the bill’s sponsor, Representative John Tilley, this chapter standardizes the process through which all victims of domestic violence, including dating partners, may obtain protective orders.\(^{98}\) Otherwise, the bill largely remained the same.\(^{99}\) The bill passed in the Kentucky House of Representatives on February 10, 2015.\(^{100}\) Now the bill faces the Kentucky Senate.\(^{101}\) If the bill passes the Senate it will be sent to Governor Beshear for approval.\(^{102}\) Upon the Governor’s approval, the bill will become law.\(^{103}\)

\(^{95}\) Id.; Cheves, supra note 90.
\(^{96}\) See H.B. 8.
\(^{99}\) Id.
\(^{100}\) Id.
\(^{101}\) Id.
\(^{103}\) Id.
III. ANALYSIS

A. Why Should We Care About Dating Violence?

Dating violence has long lasting effects on both the abused and the abuser. Victims of dating abuse are at higher risk for substance abuse, eating disorders, becoming pregnant at a young age, contracting an STI, and becoming a domestic violence victim in the future. It is estimated that one out of four women will experience domestic violence in her lifetime. Additionally, the severity of domestic violence tends to increase over time.

While domestic violence continues to be an issue, dating violence is becoming even more prevalent, as 72% of high school students consider themselves dating. Because students are dating at a younger age, dating violence is starting at a younger age as well. In a recent study by the CDC, 9.4% of high school students experienced some sort of abuse from a dating partner in the twelve months preceding the survey. Research on dating violence indicates that those who experience dating violence at a young age are more likely to be repeat victims in their lifetime. Of adults who have been raped, stalked, or physically abused by a partner, 22.4% experienced some form of partner abuse between the ages of eleven and seventeen. These statistics show that those who are most likely to be victimized are afforded the least protection in Kentucky.

Though abuse begins during high school years, the problem continues and grows on college campuses. One study performed at the University of Kentucky in 2007 surveyed college females; it determined that 36% of female students had experienced rape, assault, or stalking while attending the University of Kentucky. As previously mentioned, women between

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103 Id.
104 LOVEISRESPECT.ORG, supra note 14.
105 Id.
107 LOVEISRESPECT.ORG, supra note 14.
108 Id.
109 Teen Dating Violence, supra note 34.
the ages of sixteen and twenty-four are three times more likely to be victimized than any other demographic.111 According to a study done by the National Coalition Against Domestic Violence in 2007, 53% of domestic violence victims were abused by a former or current boyfriend or girlfriend.112 Moreover, 21% of college students report having experienced dating violence from a current partner, and 32% report having experienced dating violence from a previous partner.113

The costs to society are significant. One study estimates the cost of intimate partner violence at over 5.8 billion dollars each year.114 This includes over 4.1 billion dollars in direct health care expenses.115 Female victims of domestic violence are more likely to be unemployed, have health problems, and be welfare recipients.116 Furthermore, domestic violence costs employers in the United States upwards of 13 billion dollars each year.117 Finally, domestic violence costs a healthcare provider 19.3 million dollars for every 100,000 women between the ages of eighteen and sixty-four enrolled each year.118

B. Are Protective Orders Effective?

Studies show that protective orders are more than just a piece of paper. In a recent study, University of Louisville researchers interviewed 226 victims of domestic violence who successfully obtained domestic violence orders.119 Out of those women, only half reported a domestic violence
order violation in the six months following the issuance of the domestic violence order.\textsuperscript{120} Of those who reported a violation, 80\% lived in homes with children.\textsuperscript{121} Not only did half of those women not experience domestic violence, but 80\% of those homes with children were spared the exposure and the aftermath caused by witnessing domestic violence.\textsuperscript{122} Further, a majority of women in both rural and urban areas felt the domestic violence order was effective, significantly reducing the fear of recurring violence from their partner.\textsuperscript{123} At the end of the six-month period, only 4.3\% of women who took part in the study had their domestic violence orders dropped.\textsuperscript{124}

On a national scale, research also shows that legislation is effective in reducing domestic violence, particularly with the enactment of the Violence Against Women Act (VAWA) in 1994.\textsuperscript{125} It is estimated that VAWA saved almost 12.6 billion dollars in net averted social costs in the first six years alone.\textsuperscript{126} More victims are reporting domestic violence to the police (an increase from 27\% to 51\%), and the rate of non-fatal violence against women has decreased by 63\%.\textsuperscript{127}

\section*{C. Arguments Against Including Dating Couples in Domestic Violence Statutes}

1. Allowing Dating Couples to Obtain a Civil Protective Order Would Overcrowd Court Dockets

Opponents of the current House Bill 8 cite numerous reasons to exclude dating relationships from Kentucky’s statutory framework. The most common is that to include dating relationships would only increase the amount of protective order hearings on courts’ dockets, thus further

\footnotesize
\begin{itemize}
\item \textsuperscript{120} Id. at 97.
\item \textsuperscript{121} Id.
\item \textsuperscript{122} Id. at 103.
\item \textsuperscript{123} Id.
\item \textsuperscript{124} Id.
\item \textsuperscript{125} NNEDV, \textit{supra} note 114.
\item \textsuperscript{126} Id.
\item \textsuperscript{127} Id.
\end{itemize}
clogging the already congested court dockets in various counties.\textsuperscript{128} Opponents argue that expanding the class of people who may obtain protective orders will increase costs for the state.\textsuperscript{129} These protests undoubtedly have merit. One study estimates the cost of issuing a protective order at $354.\textsuperscript{130} Additionally, the opposition argues that courts would have a difficult time determining whether a couple was truly in a dating relationship.\textsuperscript{131}

However, both of these arguments can be refuted. First, as evidenced above, domestic violence is costly on a national level.\textsuperscript{132} In order to stop the cycle of domestic violence, spending $354 now could save more in the long run.\textsuperscript{133} Second, the most recent version of the amendment contains specific factors that define “dating.”\textsuperscript{134} With these factors as guideposts, courts should have no problem in determining the existence of a dating relationship.

On the other hand, some claim that allowing dating couples to obtain civil protective orders would have the opposite effect.\textsuperscript{135} As of now, much judicial effort is spent simply determining whether or not a couple indeed lives together.\textsuperscript{136} To have a statute that specifically defines “dating” would eliminate the judicial investigation that occurs routinely without the definition.

2. Criminal Law Affords Victims of Dating Violence Adequate Protection

Others argue that Kentucky’s criminal code provides protection for those who are not entitled to seek civil protective orders.\textsuperscript{137} These opponents believe dating violence victims should seek protection elsewhere. For example, Kentucky Senate President Robert Stivers said

\begin{footnotes}
\textsuperscript{128} Blackford & Spears, supra note 110.
\textsuperscript{129} Id.
\textsuperscript{130} LOGAN, WALKER, HOYT & FARAGHER, supra note 119, at 149.
\textsuperscript{131} Blackford & Spears, supra note 110.
\textsuperscript{132} See supra text accompanying notes 114–18.
\textsuperscript{133} See LOGAN, WALKER, HOYT & FARAGHER, supra note 119, at 149.
\textsuperscript{135} Blackford & Spears, supra note 110.
\textsuperscript{136} Id.
\textsuperscript{137} Id.
\end{footnotes}
that victims of dating violence have other avenues to pursue.\textsuperscript{138} If one of his daughters were assaulted, for example, he said that he would simply take out a warrant for the person’s arrest.\textsuperscript{139} Others are afraid people may file false orders out of spite or by genuinely misreading the true nature of the relationship.\textsuperscript{140}

The problem with this assumption, however, is that not all levels of abuse can be translated into a criminal charge. For example, some forms of stalking, verbal, and emotional abuse may not amount to a misdemeanor domestic violence charge.\textsuperscript{141} In addition, a civil protective order may be granted before a crime actually occurs, or rather, before the victim is injured.\textsuperscript{142} The benefit of a civil protective order is that if an abuser violates a civil protective order, a police officer may arrest the abuser.\textsuperscript{143} In contrast, if an abuser violates a criminal no-contact order, “the victim must go down to the courthouse and file a complaint.”\textsuperscript{144} But that is particularly problematic, as studies show that 27\% of victims will be re-assaulted prior to going to trial.\textsuperscript{145} A domestic violence order is advantageous to the victim because it avoids these problems, or at least mitigates them.

\textbf{D. Other States’ Approaches to Domestic Violence Laws}

According to Break the Cycle, a national nonprofit organization dedicated to ending teen dating violence, Kentucky received a grade of “F”\textsuperscript{138}Cheves, supra note 90.\textsuperscript{139}Id.\textsuperscript{140}Blackford & Spears, supra note 110.\textsuperscript{141}Kentucky does not codify domestic violence misdemeanors. If an offense is a misdemeanor under Kentucky criminal law, and the victim is related to the offender as described in KY. REV. STAT. ANN. § 403.720 (West, Westlaw through 2014 legislation), the offense is considered a domestic violence misdemeanor.\textsuperscript{142}KY. COURT OF JUSTICE, PREVENTING DOMESTIC VIOLENCE: HOW TO OBTAIN AN EMERGENCY PROTECTIVE ORDER & DOMESTIC VIOLENCE ORDER (2010), available at http://courts.ky.gov/resources/publicationsresources/Publications/P9StatewideDomesticViolencebrochure910.pdf.\textsuperscript{143}See KY. REV. STAT. ANN. § 403.760 (Westlaw).\textsuperscript{144}Blackford & Spears, supra note 110.\textsuperscript{145}An Act Relating to Domestic Violence: Hearing on H.B. 8 Before the H. Judiciary Comm., 2014 Reg. Sess. (Ky. Jan. 8, 2014) (statement of Carol Jordan), available at http://www.ket.org/legislature/archives/?nola=WGAOS+015003&session=wgaos+015.
for its domestic violence laws. Though Break the Cycle takes into consideration multiple factors when rating states, Kentucky’s exclusion of dating couples from access to protective orders results in an automatic “F.”

In contrast, surrounding states Tennessee and Indiana each received a grade of “B.” Consequently, both Tennessee and Indiana allow couples in dating relationships to seek protective orders against their abusers. And states like Maryland and Utah, who received a grade of “C” and “F,” respectively, when the survey was performed in 2010 have since amended their domestic violence laws to allow dating couples to receive protective orders.

IV. Resolution

As evidenced, dating violence is a serious issue that deserves legislative attention. While there are several resources for adults in terms of treatment and awareness, there are less so for young adults. Though these treatment and awareness programs and initiatives have helped, the problem of domestic violence remains. Therefore, because of the benefits of protective orders discussed above, it is necessary to address these problems with a legislative solution.

To answer these concerns, the Kentucky House Judiciary Committee drafted the most recent House Bill 8 to allow those who did not fit into one of the previously protected categories, but had been a partner in a dating

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147 Id. at 46.
148 Id. at 40–41, 96–97.
149 Id.
151 NNEDV, supra note 114.
152 See supra Part III.B.
relationship, to gain the civil protection of a domestic violence order (or, to use the new terminology, an “interpersonal protective order”).

First, this version of House Bill 8 placates those who are uncertain of the effect that the addition of dating relationships will have on courts. By providing a specific definition of dating violence, dating relationships will be confined to a discrete category, ensuring that these orders are not extended to those who do not qualify as “dating.” Second, House Bill 8 only extends protection to persons whose relationship existed within the past three years. That innovation prohibits someone from using the new statutory scheme when the issue of dating violence has become irrelevant. Third, House Bill 8 genuinely addresses and resolves the issue of the petitioner who attends the same school as the person against whom she files for a domestic violence order: “If the petitioner or respondent is a minor the court shall inquire whether the parties attend school in the same school system. If they do, the court shall impose conditions having the least disruption in the administration of education to the parties while providing appropriate protection to the petitioner.”

While these changes are good and necessary, they are not the only solutions that exist to this widespread problem. While offering civil protective orders is both a quick fix to the current problem and an important component in stopping the cycle of violence, it is not the only step that must be taken to prevent this cycle from continuing. According to the CDC, the most effective way to stop dating violence and other domestic abuse is to stop the violence before it starts. In order to do this, it is important to create safe places in which teens and young adults can learn to recognize signs of dating violence and to learn how to get help if they find themselves or a friend in a dangerous situation.

In addition to the changes made by House Bill 8, other bills have been drafted that would increase awareness of dating violence in schools. In 2010, through the Tina Croucher Act (named after a young woman who

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154 Id.
156 Id.
was murdered by her boyfriend at age seventeen), Ohio mandated a dating
violence prevention curriculum in its public schools.\textsuperscript{158} The Act requires
schools to incorporate age appropriate instruction for seventh through
twelfth graders, to provide in school training for teachers, and to amend any
school policies that include harassment or bullying to also include dating
violence.\textsuperscript{159}

Because these programs are relatively new, research regarding their
effectiveness is limited.\textsuperscript{160} In a 2011 study performed in New York schools,
however, researchers evaluated the effectiveness of programs such as that
implemented in Ohio and advocated for in Kentucky.\textsuperscript{161} Ultimately, the
study concluded “that a condensed five-session curriculum” on dating
violence targeted at students in the sixth and seventh grades could
effectively reduce dating and peer violence.\textsuperscript{162} This study used two
strategies, both building intervention as well as classroom intervention in
order to create an environment in which all students felt encouraged and
comfortable.\textsuperscript{163}

In 2013, House Bill 98 (which related to teen dating violence) was
proposed in the Kentucky House of Representatives.\textsuperscript{164} The Bill defined
dating and teen dating violence.\textsuperscript{165} It would have empowered local boards
of education to prohibit teen dating violence and incorporate age-
appropriate education regarding dating violence for seventh through twelfth
grade students.\textsuperscript{166} School boards would have been able to establish
guidelines requiring faculty and school administrators to respond to
incidents of teen dating violence, and to inform them of the individual to

\textsuperscript{158} OHIO REV. CODE ANN. § 3313.60 (West 2014); see also Lisa M. Burleson, “Tina’s Law” Requires Public Schools to Address Dating Violence, OHIO STATE BAR ASS’N (June 28, 2012), https://www.ohiobar.org/ForPublic/Resources/LawYouCanUse/Pages/LawYouCanUse-615.aspx.
\textsuperscript{159} OHIO REV. CODE ANN. § 3313.60.
\textsuperscript{160} See TAYLOR, STEIN, WOODS & MUMFORD, supra note 150, at 8.
\textsuperscript{161} Id. at 84.
\textsuperscript{162} Id. at 85–86.
\textsuperscript{163} Id. at 86.
\textsuperscript{165} H.B. 98.
\textsuperscript{166} Id.
whom all reports of dating violence should be furnished.\footnote{Id.} Finally, the Bill would have required middle and high school teachers, guidance counselors, and principals to perform one hour of continuing education on the topic of teen dating violence yearly.\footnote{Id.} While House Bill 98 passed the House, ultimately, it died in the Kentucky Senate, despite the fact that the implementation of the program was made optional, and that legislators removed the requirement that reports of teen dating violence be compiled in a statewide data system.\footnote{Why Doesn’t the Kentucky Senate Care About Dating Violence?, THE MARY BYRON PROJECT, supra note 164.}

Though efforts like House Bill 98 still have great strides to make in the Kentucky Legislature, change must be made in order to stop dating violence at a young age and to end the cycle of domestic violence. Kentucky must bring its domestic violence laws into the twenty-first century by enacting House Bill 8.

V. CONCLUSION

In conclusion, the Kentucky Legislature should adopt House Bill 8 in order to allow dating couples to obtain a civil protective order. It is important to remember the reasons why eliminating domestic violence is critical to all members of society—not just women, victims, or survivors. Dating violence is costly, both economically and emotionally, on all members of society. In addition to adopting this new House Bill 8, Kentucky should strive to educate young people on dating violence in order to stop the cycle of domestic abuse.

As Representative Robert Benvenuti commented during the hearing held by the Kentucky House of Representatives, House Bill 8 “provides a commonsense, civil avenue for [dating violence] to be addressed . . . it’s a good bill, whether you’re conservative or a liberal it’s a just a bill, and it’s time that it be passed.”\footnote{Legislative News Releases, supra note 98.} In enacting only the third expansion in thirty years, Kentucky will be providing necessary protection to those at the
highest risk of victimization and, in doing so, creating a safer community for us all.