



FINAL REPORT

HOUSE RESOLUTION 12

EXAMINATION OF THE EXPANSION OF ADVOCACY AND LEGAL RESOURCES FOR MINORS WHO ARE VICTIMS OF TEEN DATING AND SEXUAL VIOLENCE AND RECOMMENDATIONS

May 31, 2020

INTRODUCTION

In June 2019, through the passing of [House Resolution 12 \(HR12\)](#), the General Assembly requested for the Domestic Violence Coordinating Council (DVCC) to examine the expansion of domestic violence, teen dating violence, and sexual violence advocacy and legal services to minors. HR12 allowed for the DVCC to study the issue with assistance from various organizations outlined in the Resolution in order to provide recommendations to the General Assembly by May 31, 2020. Following the passing of the Resolution, the DVCC gathered representatives from the Department of Services for Children, Youth and Families (DSCYF), Child Inc., People’s Place, the Delaware Coalition Against Domestic Violence (DCADV), Delaware Volunteer Legal Services (DVLS), Community Legal Aid Society, Inc of Delaware (CLASI), the YWCA of Delaware, the Sexual Assault Network of Delaware (SAND), the General Assembly, Family Court, the Department of Education, the Department of Justice, and Office of the Child Advocate to conduct a systemic analysis of the issues raised using a multidisciplinary approach.

BACKGROUND

The National Center for Injury Prevention and Center for Disease Control and Prevention (CDC) defines teen dating violence (TDV) as a type of intimate partner violence that occurs between two people in a close relationship. TDV, also sometimes referred to as “dating violence,” can take place in-person or electronically, such as through social media, phone apps and may look like repeated texting or posting sexual pictures of a partner online without consent.

TDV is characterized by four types of behaviors (see Chart A), which are not always recognized by teens. Many teen relationships will not initially include the behaviors in the chart but will show signs of being unhealthy. Teens often think behaviors like teasing and name-calling, are a “normal” part of a relationship—when really the behaviors can be signs that a relationship can become abusive and develop into serious forms of violence.

CHART A

Four Behaviors Present in Teen Dating Violence

Physical violence is when a person hurts or tries to hurt a partner by hitting, kicking, or using another type of physical force.

Sexual violence is forcing or attempting to force a partner to take part in a sex act, sexual touching, or a non-physical sexual event (e.g., sexting) when the partner does not or cannot consent.

Psychological aggression is the use of verbal and non-verbal communication with the intent to harm another person mentally or emotionally and/or exert control over another person.

Stalking is a pattern of repeated, unwanted attention and contact by a partner that causes fear or concern for one’s own safety or the safety of someone close to the victim.

(Breiding MJ, 2015)

For teens exposed to domestic violence as children, distinguishing between healthy and unhealthy behaviors can be complicated. Approximately 1 in 15 youth reported exposure to some sort of physical assault between their parents (Hamby S. F., 2011). Beyond the significant emotional, relational and psychological impact exposure to domestic violence has on a child, children exposed to IPV often learn destructive lessons about the use of violence and power in relationships. They may learn that it is acceptable to exert control through the use violence and abusive tactics, or that violence is in some way linked to expressions of intimacy and affection. Whichever the case, one thing researchers have found is that many teens do not report unhealthy behaviors (see Chart B).

CHART B

Possible Reasons for Underreporting of TDV

Fear of telling parents

Fear of being made fun of by peers

Second guessing yourself

Not sure who to tell or where to go

Fear of being hurt by your partner

Don’t want your parents to find out

SCOPE OF THE PROBLEM

While domestic violence occurs between family members and intimate partners indiscriminate of age, race, socioeconomic status, sexual orientation, gender identity, religion, education or disability. Young people, 12 to 19 years old, experience the highest rates of rape and sexual assault; and youth, 18-19 years old, experience the highest rates of stalking (Futures Without Violence, n.d.).

TDV is highly prevalent. It affects millions of teens in the U.S. each year. Data from CDC's *Youth Risk Behavior Survey* and the *National Intimate Partner and Sexual Violence Survey* indicate the following:

- Nearly 1 in 11 female and approximately 1 in 15 male high school students report having experienced physical dating violence in the last year.
- About 1 in 9 female and 1 in 36 male high school students report having experienced sexual dating violence in the last year.
- 26% of women and 15% of men who were victims of contact sexual violence, physical violence, and/or stalking by an intimate partner in their lifetime first experienced these or other forms of violence by that partner before age 18.
- The burden of TDV is not shared equally across all groups—sexual minority groups are disproportionately affected by all forms of violence, and some racial/ethnic minority groups are disproportionately affected by many types of violence.

On a more local level, data from the Delaware Department of Education in the 2018-2019 Statewide Summary Report of Incidences of Dating Violence/Sexual Assault in Delaware Public Schools indicates the following:

- Districts and charters reported 161 incidents during the 2018-2019 school year.
- **There was 1 report of Teen Dating Violence.** This represents a reduction in reported dating violence incidents from the 5 reported the prior school year.
- There were 137 reports of Sexual harassment.
- There were 23 reports of Unlawful Sexual Contact.
- There were 146 male students identified as offenders, with 17 offenders reported as females.
- 124 of the reported victims were female students, 23 victims were male.
- 41 of the students identified as victims were classified as Students with a disability of some form.

(Moore, 2018-2019)

HOUSE RESOLUTION 12 WORKGROUP

Through the Children and Domestic Violence Committee of the Domestic Violence Coordinating Council a small workgroup was gathered. The House Resolution 12 Workgroup includes representatives from the Department of Services for Children, Youth and Families, Child Inc., People's Place II, the Delaware Coalition Against Domestic Violence, Delaware Volunteer Legal Services, Community Legal Aid Society of Delaware, the YWCA of Delaware, the Sexual Assault Network of Delaware, the General Assembly, the Family Court, the Department of Education, the Department of Justice, and Office of the Child Advocate. This multidisciplinary group met in person and shared ideas, data, thoughts and possible solutions to enhance services available to teens exposed to and experiencing teen dating and sexual violence. This group shared its collective expertise to focus on the current climate of teen dating and sexual violence in Delaware. Additionally, this group looked at research from across the county that could possibly be replicated in Delaware. Some of those highlights will be shared later in the report and a summary of all state research will be included as an attachment this report. The group had lengthy discussions and reached out to other organizations and State of Delaware agencies to obtain a comprehensive picture of the current state of services available to teens in the State of Delaware. This section is a summary of the HR 12 Workgroup's efforts.

SCHOOL-BASED HEALTH CENTERS

The first School-Based Health Center (SBHC) was implemented in the state in 1985. SBHCs are operated by a multi-disciplinary team of health professionals who address a broad range of health and health-related needs of students. Per the Delaware Department of Public Health School-Based Health Centers' website, "SBHCs may be funded by state, federal and/or third-party billing funds; through a community partnership; through grant sources; but also require the support of the school with in-kind or actual dollars. SBHCs are not a substitute for the student's personal physician and/or medical home but rather, act as a source for referral to outside medical care and as points of contact for supportive, comprehensive health services." Additionally, in order for SBHCs to be sustainable in the schools it is vital that SBHCs bill a student's health insurance in order to maintain service levels at the health centers.

The House Resolution 12 (HR12) workgroup discussed the utilization of the school-based health centers (SBHC) throughout Delaware public schools. Conversations included what services are available to students and what the process is for students to access those services at the school-based health centers.

The process of public school students accessing services at the SBHCs begins with parents/guardians providing consent for a student to become a client of the health center. Parents/guardians are able to consent for students to utilize all services that the health center provides or the parent/guardian can select which individual services students are able to be utilized at the SBHC. When students receive parental/guardian consent to become a client of the health center, their health insurance information is collected in order for SBHCs to bill for services provided. While SBHCs bill health insurance companies for services, there are no out of pocket expenses passed on to the student.

When the workgroup examined and discussed the health insurance process, the question of a student's privacy and confidentiality was raised. Because health insurance companies may be billed for services received by the students, an explanation of benefits may be generated and sent to the parent/guardian of the student who may be the holder of the health insurance. This raises privacy concerns because a student's health information and services rendered may be provided unintentionally to a parent/guardian. This may be an issue for some students who may not have shared any of their health or relationship concerns with their parent/guardian.

Some health insurance companies may remove service codes that do not list the particular services received by the students at SBHCs; however, this is not common practice in Delaware. For students that receive Medicaid benefits through the State of Delaware, an explanation of benefits is not generated. Therefore, there isn't a confidentiality concern. A suggestion was made to connect with the Delaware School-Based Health Alliance. This group is currently meeting with health insurance providers to navigate privacy and explanation of benefits issues for students who use school-based health centers.

The workgroup shared ideas as to how the services and utilization of SBHCs can be increased as well as any possible barriers to usage. Concerns raised included a lack of knowledge about available services for students at the health centers; the perceived stigma of mental health; and the lack of teen focused promotion of services within the health centers.

Ways to expand usage of the SBHCs can include targeting outreach to parents/guardians and students on how health centers benefit all. Connecting parents/guardians to the health centers could increase parental consent and greater student utilization of the SBHC. Taking into consideration the unique differences between each school district and school board, all school districts should tailor their outreach efforts to promote the services available at their district's health centers.

School-Based Health Centers should include and promote materials with teen specific images as a method to increase the engagement of teens accessing the various services. Schools should also explore ways to educate the community about mental health issues impacting teens and families; challenge myths and stereotypes; and promote positive attitudes and benefits of supportive services. Demonstrating the array of services that are available through the health center will help to break down negative stigmas around mental health. Furthermore, SBHCs have existing partnerships with community-based non-profits to refer students who may need additional services. The non-profits working with teens do not bill health insurance companies and services received by those students would be considered private.

RECOMMENDATIONS:

1. Have school districts provide targeted outreach to students, parents and the school community on the benefits of school-based health centers. This could include SBHC staff being available during school open houses to provide information and field questions of those in attendance.
2. Make provisions for the school districts that have highly engaged students in their SBHCs to share their best practices with other school districts that are not as utilized.
3. Enhance school-based health centers with the addition of domestic violence services co-located within the school-based health centers.

DIRECT SERVICES AVAILABLE TO TEENS IN THE COMMUNITY

Exploring services outside of those provided by the school-based health center, the HR12 workgroup discussed the various community-based services available to teens and whether parental consent was needed for teens to access community-based services.

The workgroup discussed the benefits of separating teens into a “special population” category in order to recognize that teen victims and survivors have unique confidentiality, safe space, and peer-to-peer needs as compared to adult victims and survivors. Secondly, workgroup members discussed that for teens having access to information versus access to services were two different, albeit important, aspects to helping teens who may be experiencing teen dating or sexual violence.

Regarding services that teens may utilize without parental consent, workgroup members agreed that any chat lines, text lines and hotlines geared towards teens--which were often anonymous--should not require parental consent.

On the contrary, services such as in-person counseling, services that are provided for teens by non-profit agencies such as YWCA of Delaware and ContactLifeline require parental consent to get started in the counseling process. However, Child Inc. and People’s Place do not require parental consent for teens 14 years old and older to get started in the counseling process. Ordinarily, community-based agencies follow their own internal policies and [Section 5003\(f\)\(3\) of Title 16 of the Delaware Code](#) when mental health or counseling services are offered. For advocacy and non-mental health services, absent Delaware Code to provide guidance, agencies create their own policies around parental consent.

Regarding teens accessing information, it is important to have confidential online options where teens can find accurate information about healthy relationships, red flags in relationships and teen specific safety planning. Additionally, it is important to have an option in which a teen could reach out to a live person for real-time information, 24 hours a day. Workgroup members discussed the importance of having safe spaces, whether virtual or in-person, for teens to navigate their relationships in a peer to peer space. Having safe spaces with other teens allows them to relate to each other in the context of the relationships they experience.

RECOMMENDATIONS:

4. Expand student led safe spaces for teens to have Peer to Peer programs for teen dating and sexual violence.
5. Have community-based agencies review their internal age of parental consent policies to achieve consistency in the domestic violence and sexual violence areas.

PROTECTION FROM ABUSE

A child is able to file a protection from abuse petition when he or she qualifies as a petitioner under [Section 1041 of Title 10](#). However, a child does not have the legal capacity to represent himself or herself in Court. Because of this, a guardian ad litem (GAL) is often appointed. [Rule 17 of the Family Court Rules of Civil Procedure](#) clarifies when a GAL needs to be appointed.

Rule 17 provides that a parent seeking protection of his or her own child need only seek to be appointed GAL of his or her child if the parent does not have a qualifying jurisdictional relationship with the respondent. A GAL will be appointed for the child if the alleged abuse was committed by a person with whom the petitioning parent does not have a qualifying relationship, such as alleged abuse committed by a child's boyfriend or girlfriend, or by a step-relative through the other parent.

When a GAL is necessary, a proposed GAL can be a parent, guardian or other adult. A custodial parent or legal guardian is presumed to be an appropriate GAL unless they have an interest in the case that does not align with the child's. If the parent is not the proposed GAL, the parent would receive notification of the proceeding through the Court. In circumstances where no appropriate GAL can be found, Rule 17 further provides that the Court may appoint an attorney or permit the child to proceed on his or her own.

The Domestic Violence Advocacy Program, operated by Child Inc. and available in Family Court in all three counties, may be able to assist with the Petitioner's PFA petition if the PFA parties have been in a dating relationship or share a child together. In cases where the PFA petitioner and the PFA Respondent attend the same school, the Department of Education provides guidance to schools on how to comply with the conditions of the PFA order when it comes to a school's activities, events or setting.

When the respondent is a teen and ordered to attend domestic violence treatment both Turning Point at People's Place and Child Inc. are DVCC Certified Adolescent Domestic Violence Treatment Providers.

In Fiscal Year 2019 (July 1, 2018 to June 30, 2019) there were 13 PFA petitions filed by juvenile petitioners in Delaware. There were 4 PFA petitions filed in New Castle County, 6 in Kent County and 3 in Sussex County. There were 6 PFA orders entered by consent, 2 PFA petitions denied, 2 PFA orders that were granted after a trial, and 3 PFA petitions that were dismissed.

RECOMMENDATIONS:

6. Provide education to community stakeholders, School-Based Health Centers, and Community Centers about resources available for teens filing a Protection from Abuse petition.

7. Family Court to explore adding representatives from Child Inc.'s Domestic Violence Advocacy Program, Delaware Volunteer Legal Services and Community Legal Aid Society of Delaware to an existing Family Court committee reviewing juvenile filings and the GAL process. This would also include creating a specific document for the GAL process as it relates to PFA petitions.

OUT OF SCHOOL YOUTH AND NON-TRADITIONAL SCHOOL YOUTH

The HR 12 Workgroup discussed the topic of out of school youth and non-traditional school youth. The group discussed homeschooling students and their interactions with the public schools in their home districts. It was shared that although those that are being homeschooled may be able to participate in extracurricular activities their involvement does not expand to include health services or services at the school-based health centers (SBHC) at the student's district school.

However, if a student is attending an alternative school program, they will have access to the SBHC and they may even have services provided onsite in the alternative school setting. The workgroup discussed connecting with students involved in the truancy court process. Students who are inconsistent with school attendance may be at greater risk for experiencing dating and/or sexual violence. The group resolved that providing teen dating and sexual violence resources to students engaged with truancy court would provide a greater outreach to those who may be at higher risk. Additionally, the workgroup discussed teens that may be connected with educational development and job training programs. In reviewing these programs, the group concluded that it would be beneficial for educational development and job training programs to partner with agencies that provide healthy relationship education to students.

In regard to private schools, private schools are able to dictate their own curriculum and services when it comes to health service and educational needs provided to their students.

RECOMMENDATIONS:

8. Mandate public, private, charter schools and institutes of higher learning to print the national domestic violence hotline number on any school issued identification cards. This would be similar [California Senate Bill 316](#) enacted in September 2019.
9. Partner with agencies that are already in contact with youth who may be in a non-traditional school setting. This would include outreach to agencies that provide educational development as well as job skills training.

NATIONAL FINDINGS

The DVCC examined teen dating and sexual violence services and advocacy throughout the United States. The DVCC selected a University of Delaware intern to conduct research and outreach to state domestic violence and sexual violence coalitions to examine practices in other states. Below you will find highlights of three states which stood out as having creative and novel practices. Information about the other states researched can be found as an attachment to this report.

ARIZONA:

What stood out: The interactive website of Bloom365 which focused on Teen Dating Violence Prevention. <https://www.bloom365.org/activation>.

In reviewing this website, it was found to be a very colorful and interactive website that is simple and straightforward to navigate. Bloom 365 has a focus on prevention and intervention of dating violence for teens. This website provides more material than what can typically be found on a teen dating violence website beyond educational resources. The program offers peer support groups that are peer lead and follow a psychoeducational model to ensure that teens are being informed about characteristics of healthy and unhealthy relationships. Permission from a parent or guardian is required in order to attend these in person group sessions. Additionally, Bloom 365 has support groups for LGBTQ+ students and give students the option to facetime or skype instead of appearing at support group in person. This program also provides trained peer advocates to develop teen specific safety plans, talk about concerns in teen relationships and all referrals needed can be achieved anonymously.

CALIFORNIA:

What stood out: [California Senate Bill 316](#) which mandates student issued ID cards include the National Domestic Violence Hotline number.

In California, the General Assembly mandated that effective October 1, 2020, all public, charter and private schools that serve students in grades 7 to 12 along with public or private institutions of higher learning that issue student identification cards include the National Domestic Violence Hotline Number listed on the identification card.

What else stood out: [Break the Cycle](#): This program provides schools, youth organizations, and agencies with the resources necessary to help young people navigate healthy, unhealthy, and abusive relationship behaviors, as well as educate them on their legal rights. Break the Cycle has launched several different initiatives in partnership with groups such as the Start Talking Campaign, the National Domestic Violence Hotline, and LoveisRespect to provide schools with resources and training when teaching about teen dating violence.

FLORIDA:

What stood out: The Florida Coalition Against Domestic Violence's Youth Advisory Board

The Florida Coalition Against Domestic Violence's Youth Advisory Board (YAB) consists of representatives from grades 6th through 12th who live in Florida. The Youth Advisory Board holds at least one collaborative meeting per year and periodic web-based meetings. Each member of the board is responsible for leading initiatives in their local community. YAB membership benefits include help in building college applications and resumes, expanding leadership skills, having statewide involvement and influence, and the satisfaction of knowing you are making a difference by preventing dating violence in Florida. The mission of the board is to spread awareness, develop techniques for the prevention of teen dating violence, and connect students across the state. YAB members advise adults working to prevent teen dating violence by sharing a youth perspective on teen dating violence prevention initiatives and projects throughout Florida. YAB objectives include:

- Promote social change amongst youth
- Empowering youth to educate peers on teen dating violence
- Spread awareness on the issue of teen dating violence across the state
- Serve as an advisor to the Florida Coalition Against Domestic Violence on statewide teen dating violence prevention initiatives.

HOUSE RESOLUTION 12 FINAL RECOMMENDATIONS

1. Have school districts provide targeted outreach to students, parents and the school community on the benefits of school-based health centers. This could include SBHC staff being available during school open houses to provide information and field questions of those in attendance.
2. Make provisions for the school districts that have highly engaged students in their SBHCs share their best practices with other school districts that are not as utilized.
3. Enhance school-based health centers with the addition of domestic violence services co-located within the health centers.
4. Expand student led safe spaces for teens to have Peer to Peer programs for teen dating and sexual violence.
5. Have community-based agencies review their internal age of parental consent policies to achieve consistency in the domestic violence and sexual violence areas.
6. Provide education to community stakeholders, School-Based Health Centers, and Community Centers about resources available for teens filing a Protection from Abuse petition.
7. Family Court to explore adding representatives from Child Inc.'s Domestic Violence Advocacy Program, Delaware Volunteer Legal Services and Community Legal Aid Society of Delaware to an existing Family Court committee reviewing juvenile filings and the GAL process. This would also include creating a specific document for the GAL process as it relates to PFA petitions.
8. Mandate public, private, charter schools and institutes of higher learning on school printing the national hotline number on any school issued identification cards. This would be similar to a law passed in California in the past year.
9. Partner with agencies that are already in contact with youth who may be in a non-traditional school setting. This would include outreach to agencies that provide educational development as well as job skills training.

CONCLUSION

This report includes background information on teen dating and sexual violence, a workgroup summary as well as statistical information along with recommendations for ways to expand the reach of community and legal services to teens that have been exposed to or are victims/survivors of teen dating and sexual violence.

The Domestic Violence Coordinating Council respectfully submits this report and recommendations for consideration by the General Assembly based on consensus of those individuals and agencies that agreed to participate in this process.

APPENDIX A-DEFINITIONS

COUNSELOR: Counselors have obtained at least a Masters-level education in counseling or a related field and have completed thousands of hours of additional supervised post-graduate work and have obtained, or are working to obtain, a professional license. Counselors work directly with victims and survivors and help them process the trauma. They address mental health concerns such as anxiety/stress, depression, and other complex issues that might take months or even years to work through.

GUARDIAN AD LITEM: A guardian ad litem is an adult who participates in a court case on behalf of a child. Guardians ad litem are frequently referred to by the initials, GAL.

LEGAL ADVOCATE: Legal advocates are trained to assist a victim/survivor with all advocacy under the civil justice system or advocacy for criminal legal issues including preparing paperwork for protection orders; accompanying a victim/survivor to a protection order hearing, administrative hearing, or other civil proceeding. Legal advocacy does not include attorneys, paralegals, or governmental victim advocates (i.e., victim assistant/victim-witness coordinator) or non-governmental victim advocates

PROTECTION FROM ABUSE (PFA) ORDER: A PFA Order is an order of Family Court ordering someone to stop abusing another person, and may include other relief, such as ordering the abuser to stay away from the person being abused. Abuse is defined as any threatening or harmful conduct including serious emotional harm

PFA PETITIONER: The person filing the PFA petition

PFA RESPONDENT: The person responding to the PFA petition.

SUPPORT GROUPS: Peer support groups can be helpful for individuals to share common issue or similar experiences and can help a person cope with challenges. Group members are all going through similar challenges in their lives and seek a support and understanding that family and friends may not be able to provide. Having a supportive environment where one can talk about what is going on can help to reduce feelings of isolation and improve a person's wellbeing.

THERAPEUTIC SERVICES/MENTAL HEALTH COUNSELING: Group therapy offers victims and survivors the opportunity to join together and share experiences, learn about the impact of trauma, develop coping strategies, and heal in a safe, supportive setting. Therapy is a process to have a better understanding in order to change thoughts or behaviors. This can be offered to the individual, family, or group

VICTIM ADVOCATE: Victim advocates are trained to work with victims and survivors of crime. These professionals, or trained volunteers, help support victims and survivors during their time of need, and may help them with such things as emergency care, basic daily needs, navigating the justice system, finding legal representation, finding housing/shelter, and finding help for mental and emotional issues that may be the result of a trauma. An advocate may also provide crisis intervention, safety planning, and can accompany victims during medical exams.

APPENDIX B- DELAWARE CODE RELATING TO AGE OF CONSENT FOR MENTAL HEALTH TREATMENT FOR MINORS

16 Del. C. § 5003

(3) *Voluntary outpatient treatment.* — A person between 14 and 18 years of age, who is in need of mental health treatment, may request voluntary outpatient treatment from a licensed treatment facility or community provider. If the individual in need of treatment is a minor under 14 years of age, a parent, legal custodian, or legal guardian shall make the request for voluntary outpatient mental health treatment and give written consent for treatment.

a. If a minor is 14 years of age or over, then either the minor, or a parent, legal custodian, or legal guardian may give written consent to a licensed treatment facility or community provider for voluntary, outpatient treatment.

b. Consent so given by a minor 14 years of age or over shall, notwithstanding the minor's minority, be valid and fully effective for all purposes and shall be binding upon such minor, the minor's parents, custodian, and legal guardian as effectively as if the minor were of full legal age at the time of giving such written consent. The consent of no other person or court shall be necessary for the treatment rendered such minor.

c. A minor's consent is not necessary when a parent, legal custodian, or legal guardian of an individual less than 18 years of age provides consent to voluntary outpatient mental health treatment on behalf of the minor.

d. A minor, including those age 14 and older, may not abrogate consent provided by a parent, legal custodian, or legal guardian on the minor's behalf. Nor may a parent, legal custodian, or legal guardian abrogate consent given by a minor age 14 and older on his or her own behalf.

e. This section does not authorize a minor to receive psychotropic drugs without the consent of the minor's parent, legal custodian, or legal guardian. Only a parent, legal guardian, or legal custodian may provide consent for the administration of such medication.

APPENDIX C- DELAWARE CODE DEFINING TERMS RELATED TO PFA PETITIONS

10 Del. C. § 1041

The following terms shall have the following meanings:

- (1) “Abuse” means conduct which constitutes the following:
 - a. Intentionally or recklessly causing or attempting to cause physical injury or a sexual offense, as defined in § 761 of Title 11;
 - b. Intentionally or recklessly placing or attempting to place another person in reasonable apprehension of physical injury or sexual offense to such person or another;
 - c. Intentionally or recklessly damaging, destroying or taking the tangible property of another person;
 - d. Engaging in a course of alarming or distressing conduct in a manner which is likely to cause fear or emotional distress or to provoke a violent or disorderly response;
 - e. Trespassing on or in property of another person, or on or in property from which the trespasser has been excluded by court order;
 - f. Child abuse, as defined in Chapter 9 of Title 16;
 - g. Unlawful imprisonment, kidnapping, interference with custody and coercion, as defined in Title 11; or
 - h. Any other conduct which a reasonable person under the circumstances would find threatening or harmful.
- (2) “Domestic violence” means abuse perpetrated by 1 member against another member of the following protected classes:
 - a. Family, as that term is defined in § 901(12) of this title, regardless, however, of state of residence of the parties, or whether parental rights have been terminated; or
 - b. Former spouses; persons cohabitating together who are holding themselves out as a couple, with or without a child in common; persons living separate and apart with a child in common; or persons in a current or former substantive dating relationship. For purposes of this paragraph, neither a casual acquaintance nor ordinary fraternization between 2 individuals in business or social contexts shall be deemed to constitute a substantive dating relationship. Factors to consider for a substantive dating relationship may include the length of the relationship, or the type of relationship, or the frequency of interaction between the parties.
- (3) “Petitioner” means:
 - a. A person who is a member of a protected class and files a petition alleging domestic violence against such person or against such person’s minor child or an adult who is impaired;
 - b. The Division of Child Protective Services acting in the interest of a minor child and files a petition alleging domestic violence; or
 - c. The Division of Adult Protective Services acting in the interest of an adult who is impaired and files a petition alleging domestic violence.
- (4) “Protective order” means an order issued by the court to a respondent restraining said respondent from committing domestic violence against the petitioner, or a person in whose

interest a petition is brought, and may include such measures as are necessary in order to prevent domestic violence.

(5) “Respondent” means the person alleged in the petition to have committed the domestic violence

APPENDIX D- DELAWARE CIVIL RULE RELATING TO JUVENILES PETITIONING THE COURT FOR A PFA AND THE ASSIGNMENT OF GALS

Family Court Civil Rules of Procedure

Rule 17. Parties; capacity.

(a) Real party in interest.

(1) Every action shall be pursued in the name of the real party in interest. The real party in interest is the party who actually possesses the right being asserted and has a legal right to enforce the claim.

(2) The following may sue in their own names without joining the person for whose benefit the action is brought:

(A) An executor of an estate;

(B) An administrator of an estate;

(C) A guardian;

(D) A bailee;

(E) A trustee of an express trust;

(F) A party with whom or in whose name a contract has been made for another's benefit; or

(G) A party authorized by statute.

(3) No action shall be dismissed on the ground that it is not pursued in the name of the real party in interest until a reasonable time has been allowed after objection for ratification of commencement of the action by, or joinder or substitution of, the real party in interest; and such ratification, joinder, or substitution shall have the same effect as if the action had been commenced in the name of the real party in interest.

(b) Children as parties. --

(1) Except as otherwise provided by statute or rule, every child properly named as a petitioner or respondent shall be appointed a guardian ad litem.

(2) A person proposing himself or herself as a guardian ad litem for a child petitioner may sign and file a petition conditional upon subsequent appointment. However, only a custodial parent, legal guardian or duly appointed guardian ad litem may seek ex parte or expedited relief on behalf of a child. A person filing a petition against a child as a respondent has the burden of initiating the appointment of a guardian ad litem for that child.

(3) A parent of a child who holds joint or sole custody or a child's court ordered guardian of the person shall be presumed a qualified guardian ad litem unless such person has an interest in the case which is inconsistent with the child's interests. If the child's custodial status is unknown, joint natural custody by both parents shall be presumed.

(4) If no disinterested custodial parent or legal guardian is available, then another person known to the child may be appointed. However, if such person is not a

noncustodial parent, grandparent, great-grandparent, or adult sibling of the child, then appointment may only occur after a hearing.

(5) The appointment of a guardian ad litem may be sought by motion of:

- (A) The person seeking appointment;
- (B) Another party to the action;
- (C) The child;
- (D) A custodial parent or legal guardian; or
- (E) The Department of Services for Children, Youth and their Families.

(6) The motion shall set out:

- (A) The child's minority;
- (B) The identity of all persons holding parental or custodial rights or guardianship, and whether each is available for appointment or has an interest in the case; and
- (C) A proposed guardian ad litem or explanation why a guardian ad litem should be selected by the court.

(7) (A) The motion may be served with the underlying petition and shall be served upon:

- (i) All persons or entities holding parental or custodial rights or guardianship, and
- (ii) The child, if age 14 or older, but otherwise, upon the adult with whom the child resides; and
- (iii) All other parties to the action.

(B) If the motion is served with the underlying petition, any written response must be filed and served within the time permitted for an answer as provided in Rule 12.

(8) (A) If no appropriate guardian ad litem can be identified, the Court may:

- (i) Appoint an attorney to represent the child;
- (ii) Permit the child to proceed on his or her own; or
- (iii) Dismiss the action.

(B) Whether an attorney can adequately represent a child's interests with or without a separately appointed guardian ad litem will be determined on a case by case basis. Attorney's fees may be assessed against any or all parties.

(9) In a Protection from Abuse action, a parent seeking protection of his or her own minor child need only seek to be appointed guardian ad litem of his or her child if the parent does not have a qualifying jurisdictional relationship with the respondent.

(10) In any case affecting the interests of a child in which the Court finds that the appearing parties are not adequately representing the interests of the child, the Court may add the child as a party and appoint a guardian ad litem.

(c) Incompetent persons as parties. -- Whenever an incompetent person has a representative, such as a legal guardian, trustee, committee, conservator, or other like

fiduciary, the representative may sue or defend on behalf of the incompetent person. An incompetent person who does not have a duly appointed representative may sue or defend by a guardian ad litem.

(1) The appointment of a guardian ad litem may be done by the Court sua sponte or may be sought by motion of:

- (A) The person seeking appointment;
- (B) Another party to the action;
- (C) The incompetent person; or
- (D) A legal guardian or person holding a Power of Attorney if the Power of Attorney authorizes the holder to bring suit or to prosecute or defend against a legal action.

(2) The motion shall set out:

- (A) The factual basis for believing the individual is incompetent;
- (B) The identity of all known persons or entities who have been appointed legal guardian, who hold a Power of Attorney, or who otherwise have the care of the incompetent person and whether each is available for appointment or has an interest in the case; and
- (C) A proposed guardian ad litem or explanation why a guardian ad litem should be selected by the court.

(3) (A) The motion may be served with the underlying petition and shall be served upon:

- (i) All known persons or entities who have been appointed legal guardian, who hold a Power of Attorney, or who otherwise have the care of the incompetent person, and
- (ii) The incompetent person, unless the condition of the incompetent person is such as to render service or notice useless; and
- (iii) All other parties to the action.

(B) If the motion is served with the underlying petition, any written response must be filed and served within the time permitted for an answer as provided in Rule 12.

(4) (A) If no appropriate guardian ad litem can be identified, the Court may:

- (i) Appoint an attorney to represent the incompetent person; or
- (ii) Dismiss the action.

(B) Whether an attorney can adequately represent an incompetent person's interests with or without a separately appointed guardian ad litem will be determined on a case by case basis. Attorney's fees may be assessed against any or all parties.

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