

# 4th Quarterly Update | 2016

## RCDV:CPC

Resource Center on Domestic Violence: Child Protection and Custody

### Welcome to the next issue of legislative news from the Resource Center on Domestic Violence: Child Protection and Custody!

Welcome to the next issue of legislative news from the Resource Center on Domestic Violence: Child Protection and Custody! This update concludes coverage of state legislation passed in 2016, and the primary focus was on revisions to criminal statutes, followed closely by provisions regarding protection orders and prevention efforts. Other measures included protections for victims, domestic violence education, firearms, and amendment or enactment of statutes concerning families and children and domestic violence. Please direct any comments or inquiries to Amanda Kay, Program Attorney, at [akay@ncjfcj.org](mailto:akay@ncjfcj.org).

### Below is a list of the states included in this update and the general topic(s) addressed:

#### Alaska:

- Animals

#### California:

- Address confidentiality program
- Domestic violence victims fund
- Employment protections
- Housing
- Police reports
- Public benefits
- Rideshare drivers
- Violation of protection order

#### Delaware:

- Canadian orders of protection
- Orders of protection

#### Illinois:

- Adoption
- Child custody
- Domestic violence training
- Employment protection for victims
- Hearsay exceptions

- Home monitoring

**New Jersey:**

- Domestic violence definition
- Firearms surrender
- Orders of protection

**Ohio:**

- Family stability commission
- Infant mortality
- Life support decisions
- Specialty license plates

**Pennsylvania:**

- Enhanced penalties for burglary
- Strangulation

**Read on for more details about specific legislation:**

**ALASKA — ANIMALS:**

Alaska amended several statutes in a bill designed to protect pets of domestic violence victims. First, § 18.65.520 was amended to require the notice to victims provided by peace officers responding to a domestic violence call to include notice that a pet may be protected. Second, § 18.66.100 was amended to permit a court granting a protection order to allocate possession of a pet to the petitioner and to require the respondent to pay support for the pet. Third, the definition of domestic violence in § 18.66.990 was amended to include acts constituting cruelty to animals if the animal is a pet

**CALIFORNIA — ADDRESS CONFIDENTIALITY PROGRAM:**

California enacted Government Code §§ 6209.5, 6215.10, and 6215.12 to require address confidentiality program participants to receive specific notice of their right not to have their home address included in documentation for real property transactions and to prohibit any person, business, or association from displaying a participant's home address on the internet.

**CALIFORNIA — DOMESTIC VIOLENCE VICTIMS FUND:**

California enacted Revenue and Taxation Code §§ 18711 to 18714 to establish the Domestic Violence Victims Fund and to permit taxpayers to designate the fund as a recipient of contributions to the program.

**CALIFORNIA — EMPLOYMENT PROTECTIONS:**

California amended Labor Code § 230.1 to require employers to inform employees of their rights as victims of domestic violence, and further, requires the Labor Commissioner to develop a form for employers to use.

**CALIFORNIA — HOUSING:**

California amended Military and Veterans Code §987.005 to allow a housing developer or service provider to provide housing or services to female veterans and their children in women-only facilities in limited instances, which includes when the veteran is seeking housing or services as a result of being a victim of sexual abuse or domestic violence.

**CALIFORNIA — POLICE REPORTS:**

California amended Family Code § 6228 to require state and local law enforcement agencies to provide, upon request and without a fee, a copy of police reports for specified crimes, including domestic violence and stalking.

**CALIFORNIA — PUBLIC BENEFITS:**

California enacted Welfare and Institutions Code § 18914.5 to permit domestic violence victims who are residents of or on a waiting list to get into a shelter to qualify for food benefits as a separate household, and further, to qualify them for expedited services. Welfare and Institutions Code § 18904.25 was amended to include domestic violence shelters among those entities receiving information on expedited services for victims of domestic violence. Also, Welfare and Institutions Code § 18926.5 was amended to allow a victim of domestic violence to defer participation in the CalFresh Employment and Training program, which is otherwise required of those receiving benefits.

**CALIFORNIA — RIDESHARE DRIVERS:**

California enacted Public Utility Code § 5445.2 to require criminal background checks drivers for transportation network companies, which are prohibited from contracting with drivers who have a history of specified offences including domestic violence.

**CALIFORNIA — VIOLATION OF PROTECTION ORDER:**

California amended Penal Code § 166 to add orders of protection to the list of orders, the violation of which is subject to specific penalties, with the result of increasing the sanction.

**DELAWARE — CANADIAN ORDERS OF PROTECTION:**

Delaware enacted the Uniform Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act as §§ 1049G et seq. of Title 10. The Act provides for recognition and enforcement by state law enforcement officers of a Canadian protection order and for registration of the Canadian order in Delaware. Further, under § 1049L of Title 10, an officer who in good faith enforces a Canadian protection order is immune from liability.

**DELAWARE — ORDERS OF PROTECTION:**

Delaware amended § 1043 of Title 10 to extend from 10 days to 15 days the time in which to hold an emergency hearing on an ex parte protective order.

**ILLINOIS — ADOPTION:**

Illinois passed various changes to its foster family statutes to create a new type of placement for children in the child welfare system called an “adoption-only” home. In pertinent part, § 10/3.3 was enacted to set forth criminal background checks required for adoption-only homes, which includes a requirement that the parents have no felony convictions for spousal abuse.

### **ILLINOIS — CHILD CUSTODY:**

Illinois passed a bill making various changes to its child custody statutes. Among other changes, § 5/602.11 was amended to provide that a parent shall not have access to school records of a child if the parent is prohibited by an order for protection from such access. Also, § 5/606.5 was amended to state that if counseling is ordered in a family court action all counseling sessions are confidential and communications may not be used in litigation or by an expert.

### **ILLINOIS — DOMESTIC VIOLENCE TRAINING:**

Illinois amended §§ 410/3-7 (cosmetologists), 410/3A-6 (esthetician), 410/3C-8 (nail technician), and 410/3E-5 (hair braider) to require mandatory domestic violence training as a condition of licensure for the indicated professions. Also, § 410/1-13 was enacted to provide the person so licensed is not liable for acting and good faith or failing to act on information obtained during the course of employment so long as the person received the required training. In a separate bill, §§ 5/112A-27 and 60/301.1 were amended to required domestic violence training in the initial training of new recruits to law enforcement and every five years in the continuing education of law enforcement officers.

### **ILLINOIS — EMPLOYMENT PROTECTIONS FOR VICTIMS:**

Illinois law previously required employers with 14 or more employees to provide up to four weeks of unpaid leave to address domestic or sexual violence, including medical treatment, counseling, safety planning, and legal assistance. Illinois amended §§ 180/10 and 180/20 to expand this provision to include all employers with at least one employee.

### **ILLINOIS — HEARSAY EXCEPTIONS:**

Illinois law recognizes a hearsay exception for certain out-of-court testimony by crime victims under the age of 13 in the prosecution of certain offenses, including domestic battery, stalking, and aggravated stalking. Illinois amended § 5/115-10 to expand the exception to include when the victim is a person with an intellectual disability, a cognitive impairment, or a developmental disability.

### **ILLINOIS — HOME MONITORING:**

Illinois law permits home monitoring and home detention in sentencing for various offenses, including domestic violence offenses. Illinois amended several statutory provisions to permit monitoring to be performed by a third party vendor: §§ 5/110-10, 5/5-6-3, 5/5-6-3.1, 5/5-7-1, and 5/5-8A-1 to 5/5-8A-9.

### **NEW JERSEY — DOMESTIC VIOLENCE DEFINITION:**

New Jersey amended § 2C:25-19 to include cyberharassment in the definition of domestic violence.

### **NEW JERSEY — FIREARMS SURRENDER:**

New Jersey amended § 2C:25-27 to require the court to inform a defendant found guilty of a domestic violence offense that the defendant is prohibited from possessing a firearm or identification card or permit and to order the defendant to arrange for the immediate surrender of any firearms; the statute also sets forth a surrender protocol. Section 2C:25-28, governing temporary protection orders, was amended to permit a petitioner to include information about firearms in the respondent's possession and to permit the court to require the surrender of firearms if an order is granted. Section 2C:25-29, governing protection orders after hearing, requires the court to order the immediate

surrender of any firearms and sets forth a protocol.

### **NEW JERSEY — ORDERS OF PROTECTION:**

New Jersey amended § 2C:29-9 to expand the definition of contempt to include violation of a protection order from another state.

### **OHIO — FAMILY STABILITY COMMISSION:**

Ohio enacted § 5101.345 to create the Ohio family stability commission. Part of its purpose is to research and report on the rate of domestic violence and to recommend strategies to reduce domestic violence. The commission includes a domestic violence expert as a member.

### **OHIO — INFANT MORTALITY:**

Ohio passed a bill to implement recommendations from a commission to reduce infant mortality. One recommendation was for a home visiting program. Section 3701.61 was amended to require providers of home visiting services to report data on program performance indicators and to assess progress toward achieving certain benchmark domains, which include reduction in crime and domestic violence.

### **OHIO — LIFE SUPPORT DECISIONS:**

Ohio amended §§ 1337.13 (durable powers of attorney), 1337.17 (statutory authority for life support decisions), 2133.05 (statutory authority for treatment), 2133.08 (establishing priority of individuals with statutory authority), 2133.09 (statutory authority to withhold nutrition), and 2133.12 (comfort care) to prohibit a person who is subject to a protection order from making healthcare decisions for the petitioner.

### **OHIO — SPECIALTY LICENSE PLATES:**

Ohio amended § 4501.21 to authorize specialty license plates for three school districts, the funds for must be used for specific purposes, which may include counseling and education regarding dating violence.

### **PENNSYLVANIA — ENHANCED PENALTIES FOR BURGLARY:**

Pennsylvania amended § 3502 of Title 18 to provide for enhanced sentencing of certain burglary offenses, including when the conduct violates a protection order.

### **PENNSYLVANIA — STRANGULATION:**

Pennsylvania enacted § 2718 of Title 72 to create the offense of strangulation, which is a second-degree felony if committed against a household member and a first-degree felony if committed in violation of a protection order.

#### ABOUT THE RESOURCE CENTER

The National Council of Juvenile and Family Court Judges houses The National Resource Center on Domestic Violence: Child Protection and Custody. The Resource Center is devoted to helping domestic violence survivors and professionals such as judges, attorneys, social workers, and domestic violence advocates who work with survivors in the child protection and custody systems. In addition to providing training and technical assistance, the Resource Center also conducts research and evaluation projects focused on the intersection of domestic violence and child protection or child custody. Contact us by telephone at (800) 527-3223 or by email at [fvdinfo@ncjfej.org](mailto:fvdinfo@ncjfej.org).

