

Helping with Domestic Violence:

Legal Barriers to Serving Teens in Illinois



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I. Introduction

Background

In the spring of 1999 the Center for Impact Research (CIR) and the Illinois Caucus for Adolescent Health conducted a study looking at the prevalence of domestic violence among teen mothers receiving Temporary Assistance for Needy Families in Chicago.¹ In a sample of 474 teen mothers on the south and west sides of Chicago, CIR found that 55% of the young women had experienced some level of domestic violence at the hands of their boyfriends in the previous 12 months. The study also found a strong association between domestic violence and birth control sabotage, where teen girls' attempts to use birth control were undermined or thwarted by their partners.

In qualitative interviews it became apparent that many of these low-income teen mothers were experiencing severe difficulties with escaping domestic violence due to a lack of temporary or permanent housing opportunities. CIR subsequently began to conduct research with the goal of identifying the legal and regulatory barriers to serving teen victims of domestic violence.

Methodology

Toward that end, in the fall of 1999 and the spring of 2000 the Center for Impact Research collaborated with the Mayor's Office on Domestic Violence to conduct a series of focus groups made up of Chicago area service providers. Nine focus groups were conducted with service providers followed up by individual interviews with service providers and teen groups. In all, a total of approximately 110 people were interviewed. The service providers concurred that state laws and regulations severely limit services for teen victims of domestic violence—most especially for those who are pregnant or parenting. Teens themselves spoke to us about their lack of confidence in available services and protection procedures, and exhibited a lack of information about both.

A review of the laws in the 49 other states, Puerto Rico, and the District of Columbia finds that in many instances Illinois laws are more helpful to minors than statutes in other states. However, in several instances, Illinois laws are in need of change. One major area of concern is legislation requiring parental consent for mental health counseling.

¹ The report, *Domestic Violence and Birth Control Sabotage: A Report from the Teen Parent Project*, is available on CIR's website: www.impactresearch.org

Outline of Report

This first report will focus on legal barriers to providing services to teen victims of domestic violence, specifically those that affect access to transitional and long-term housing, orders of protection for domestic violence, and health and mental health services. First, we will review the prevalence of domestic violence among teen girls as reported by service providers and the teens themselves. Next, we will discuss the issues of shelter, domestic violence orders of protection, and health and mental health services requiring parental consent or emancipation for teens. After we compare the approach of other states, we will make preliminary recommendations for change so that teens can be better served in their communities.

A second report, available in 2001, will present our vision for a properly funded service delivery system that can better provide for these teens, including best practices and innovations in other states and countries.

II. Awareness and Prevalence of Domestic Violence

Awareness

Area service providers were only too eager to discuss the issue of domestic violence among teens when questioned by CIR. Many focus group participants already realize the seriousness of the issue and are pursuing counseling and prevention programs that focus on teen domestic violence. Domestic violence shelters and rape crisis/sexual assault service providers are offering workshops for teens in the schools; some are also providing group and individual counseling.

One domestic violence provider is coordinating with a local youth shelter in order to send a domestic violence counselor there once a week. Another domestic violence shelter recently has begun to provide counseling for teens. The shelter reported that staff had discovered that a teen's boyfriend had written out a set of "rules of the relationship" that she had to follow. It listed where she could go and whom she could talk to. She kept the rules in her bookbag.

Other non-domestic violence service providers have also begun to act on the issue. School social workers have recognized the problem and are implementing "Safe Dates"—a domestic violence prevention program curriculum—on a pilot basis. Some health care providers already have begun to screen teens for domestic violence.

Legal authorities are also aware of the problem. The Circuit Court of Cook County has a Domestic Violence Speaker's program. Speakers go out to the schools and give presentations on the issue. As a result of interaction with teens in the schools, the Circuit Court's Domestic

Violence Liaison estimates that between one in five to one in eight teens are victims of intimate partner violence. Department of Children and Family Services residential centers for pregnant/parenting wards of the state have recognized the significance of the problem and have begun to collaborate with legal advocates in order to educate wards about the process of obtaining orders of protection.

Awareness of this type of violence is perhaps most heightened in community programs such as Parents Too Soon. One PTS staff member says that she has spoken with some teens who do not know anyone who is *not* involved in a relationship with domestic violence.

On the Rise?

Legal and social service providers have seen an increase in calls from young women and girls seeking help with domestic violence issues.

➤ Calls to DV Hotline

The City of Chicago Domestic Violence Help Line received 13,058 calls between January 1, 1999 and June 30, 2000. One hundred sixty-one (1%) of those inquiries were made by individuals who identified themselves as being age 17 or younger. (Eleven percent of all callers did not identify their age.)

Of the 161 callers who identified themselves as being age 17 or younger, 106 (66%) were seeking counseling and general advocacy; 93 (58%) were seeking shelter; 49 (30%) were seeking legal advocacy (legal services performed by a paralegal or legal advocate); and 17 (11%) were seeking civil legal services (services performed by an attorney). One hundred twenty-five were calling from Chicago and 12 were calling from the suburbs. (Twenty-four callers did not disclose their zip code.)

Gwyn Rolland of the Helpline writes:

“Teens are typically referred to the nearest domestic violence program that indicates that they work with teen victims of domestic violence. Over 33 different agencies received teen referrals from the Help Line. In the absence of any domestic violence service that is able to accept unemancipated teens into their shelter programs, most teens who indicated a need for shelter were referred to Neon Street, a shelter for homeless youth. On a few occasions teens who were emancipated and seeking shelter were referred to a domestic violence shelter. The vast majority of the teens seeking shelter were not legally emancipated.”

Calls from those 17 and younger were made from zip codes throughout the city, with the highest volume of calls per area coming from the 60647 (Humboldt Park, Logan Square), 60641 (Portage Park, Cragin, Irving Park), and 60626 (Rogers Park) zip codes. Although it is interesting to look at where callers are living, the number of calls do not tell us the areas of highest incidence of domestic violence since they do not take into account zip code

population and density, access to phones, and a teen's knowledge of other services in the area which may replace the need for a call to the hotline. In addition, the average age of residents varies by neighborhood. The Humboldt Park area, for instance, has the youngest population of any area in Chicago.²

➤ **Legal Requests**

In Fiscal Year 2000, 25 girls under the age of 18 contacted Pro Bono Advocates for help with orders of protection. One hundred seventy women aged 18 to 23 contacted Pro Bono Advocates. Together this represents 15% of Pro Bono's clients for that year.

Although the other legal organization that helps minors to seek orders of protection, Hull House Domestic Violence Court Advocacy Project, cannot give figures describing how many minors have sought its help, staff agree that it is a significant problem.

The Domestic Violence Division of the State's Attorney's office deals with those cases in which a minor is filing an order of protection against an adult. It usually sees about two cases a month, but based on anecdotal evidence the victim witness supervisor believes that there are a great deal more teens that are not seeking services.

Although the Circuit Court of Cook County does not track the number of orders of protection sought by minors, the domestic violence coordinator of the Domestic Relations Court reports that the court is seeing more and more teens seek orders of protection.

➤ **Additional evidence**

Although the number of women and girls who have either sought orders of protection or called the Helpline or Pro Bono Advocates is small, it is our assumption—since they are people who have actively sought out help—that they represent only a small fraction of the young women and girls who are facing domestic abuse. Still other service providers gave anecdotal evidence of an increase in this type of violence. Although they come into contact with a greater number of victims than either the Helpline or PBA, those providers believe that they also see only a fraction of those who are truly in need.

In addition to the service provider focus groups, CIR conducted two teen focus groups made up of teens involved with community Parents Too Soon programs. Although teens were reluctant to disclose experiences with domestic violence, six of 20 girls from the combined groups of teens (or 30%) eventually revealed that they were currently or previously involved in some type of abusive relationship. Almost all of the girls knew someone who had been or was currently in such a relationship. The problem of identifying which girls had been victims was exacerbated by the fact that many of those involved in abusive relationships do not

² This is according to the Humboldt Park Empowerment Partnership, Near Northwest Neighborhood Network, 773.489.0383.

consider themselves to be abused. Therefore the 30% of the group that disclosed abuse may represent a smaller than accurate percentage.

Coupled with CIR's 1999 survey, this anecdotal evidence indicates that teen domestic violence is a significant problem.

III. Legal Issues

Although service providers discussed many different obstacles to providing services to teen victims of domestic violence, there were some issues that were of great concern to all of those to whom we spoke. These issues included lack of adequate shelter, problems with teens seeking help from the courts, and current mental health counseling laws.

A. Shelter and Emancipation

During the course of the focus groups, it became apparent that area service providers are extremely concerned about the lack of shelter for young teens, and have been attempting to procure transitional and longer-term housing for minors. Other states are more helpful to minors on issues such as parental notification and long-term housing.



The Department of Children and Family Services (DCFS) is the licensing agent for shelters that take in minors as the primary client. In addition to meeting licensing requirements, shelters must obtain parental consent to house a minor if the minor is not emancipated. Licensed facilities can provide shelter to minors for up to 120 days. There are no additional licensing requirements for serving the children of minors.

➤ Domestic Violence Shelters

Domestic violence shelters in the Chicago area are not licensed to take in minors. Parental consent is not sufficient, and shelters cannot house minors unless they are emancipated (emancipation is explained in detail in a later section). In order to become licensed as a youth shelter through DCFS, a facility must meet certain physical and staffing requirements. Most domestic violence shelters are not willing to become licensed due to perceived stringent requirements and the knowledge that staff must be prepared to deal with an entirely different set of issues when dealing with minors.

Several domestic violence service providers discussed their frustration when trying to serve teens since they cannot provide shelter for those under 18. One provider reported that “Recently we had two calls from girls who were 16 or 17-years-old. We were calling everyone we knew to see who could take them. It was very frustrating and upsetting to the staff member who had to deal with it.”

Another provider echoed this sentiment: “We had some calls from teens looking for shelter. It’s difficult to work with those cases because they can’t stay with us, and if you call DCFS to make a report, DCFS won’t take the case unless the kid is in the parent’s home.”

Domestic violence service providers discussed how this lack of shelter can often tie the teen victim to the abuser. When a victim depends on her abuser for shelter, she has nowhere to go to escape the relationship.

➤ Youth Shelters

• *Limitations and Lack of Shelter*

Shelters reported that a major barrier to providing adequate services to teens is the fact that in Illinois minors are not allowed to be sheltered for more than 120 days. The inability to provide transitional shelter prohibits youth shelters from rendering the long-term assistance that many minors need. Unless a minor is emancipated, parental consent is required in order to obtain shelter; shelters reported that consent is typically easy to obtain since parents are usually relieved that their children are safe.

Youth shelters licensed by the Department of Children and Family Services (DCFS) to take in minors as the primary client are few in number. In addition to meeting with focus groups, CIR conducted an informal survey of 13 local organizations that provide youth shelter in the Chicago area. CIR asked about capacity and experience with domestic violence issues. The Chicago Coalition for the Homeless Youth Committee provided additional information about the lack of shelter for Chicago youth.

CIR’s survey substantiated focus group reports about the significant lack of shelter for teens in the Chicago area. Youth shelters were seriously overwhelmed by teens seeking services, and providers discussed the critical lack of shelter for teens between the ages of 14 and 18. Shelters are consistently turning away minors. The Night Ministry Open Door shelter reports turning away three youth for every one that it takes in.

There are 61 beds available for minors who are not wards of DCFS in the Chicago area (compared to approximately 210 beds for domestic violence victims). Of those beds, 37 are available for only 21 days at a time. Fifty-five of the 61 beds are potentially available for females. There are an additional 12 beds that may be used for 17-year-olds, six of which are available to females. In 1985, the Chicago Coalition for the Homeless Youth Committee³ estimated that there were 4000 unaccompanied homeless minors in the city of Chicago. The Youth Committee and the youth shelters we surveyed reported an increase in demand for services since that estimate. All of the shelters surveyed reported turning away large numbers of youth seeking help.

³ The Chicago Coalition for the Homeless Youth Committee, 1325 S. Wabash, Ste. 205, Chicago, IL 60605, 312.435.4548, www.chicagohomeless.org

Perhaps even more critical is the lack of shelter for pregnant and parenting teens. There are potentially 20 beds for pregnant or parenting teens who are *not* wards of the state in the Chicago area. Because those beds are also available to other youth, they are not always open. DCFS pregnant/parenting teen residential centers report that they can only shelter non-wards in extremely rare cases. Many different kinds of service providers reported that finding shelter for pregnant/parenting teens was a significant problem. Community-based programs reported having almost no referral sources for this population. A transitional shelter for pregnant and parenting young adults (ages 18 to 21) located on the near northwest side reported that staff had witnessed numerous incidences of teen mothers sleeping in cars and that it was turning away large numbers of pregnant and parenting teens. Providers dealing with domestic violence said that housing was a much more serious issue for pregnant and parenting teens since many of them were living with their boyfriends.

When youth shelters were asked why they did not house pregnant/parenting teens, most cited liability issues and lack of needed services. Shelters reported that since they were already so overwhelmed by the services that they currently provided, they were in no position to begin sheltering pregnant and parenting teens. A few shelters reported that it was a licensing issue. Further investigation of state statutes and interviews with additional shelters, however, revealed that there are no additional licensing requirements for serving the children of minors. Youth shelters licensed by DCFS have already met any needed requirements.

- ***Experience with Domestic Violence***

In focus groups, youth shelters and youth service providers spoke about their lack of expertise with domestic violence issues and the inadequate amount of shelter available to minors. Although some domestic violence providers were collaborating with youth shelters to provide services, the locations of youth shelters are not confidential and the shelters do not have domestic violence services in place on a regular basis.

During interviews shelter personnel echoed focus group participants and reported that the shelters themselves were not equipped to deal with domestic violence issues. This lack of domestic violence services provided in emergency youth shelters can possibly be explained by the fact that most youth shelter workers reported that they had not seen domestic violence as a significant issue for the young teens in their programs. By contrast, youth providers that dealt with slightly older young adults (from 18 to 21) had seen domestic violence as a serious issue among their clients. Those that administered transitional housing programs had viewed it as a dominant issue.

Some providers suggested that this disparity potentially could be explained by a number of factors. In addition to the age difference and the possibility that those who are older have more serious relationships, most youth that become homeless have several different issues that cause them to take to the streets. Most teens that are in violent dating relationships do not become homeless as a result of that violence; they either live with their parents or live with their boyfriend and choose to stay in the abusive situation. The older youth, engaged in more serious relationships are also in transitional housing, which most likely allows them more opportunity to develop relationships outside the housing facility.

➤ **Teens' Views about Shelter**

The question of available shelter for teen victims of domestic violence becomes irrelevant if affected teens will not seek it, however. When teens themselves were asked about shelters in focus groups, they reacted skeptically. In the two teen focus groups, pregnant and parenting teen girls agreed unanimously that they would not seek shelter in order to escape a domestic violence situation. The girls had very pessimistic views about shelters, citing lack of privacy, too many rules, and distance from family as negative factors. Although two of the participants had stayed in a homeless shelter, it did not appear that most of the girls had formed their opinions based on first-hand experience. In addition, the girls did not seem aware that shelters specifically designed for youth or domestic violence victims existed. Nevertheless, the girls were determined that they would never seek shelter at the risk of losing their support systems.

One local domestic violence shelter was previously licensed by DCFS to take in minor wards as primary victims. However, the program was primarily for wards of the state and consistently received very few referrals from DCFS during its tenure. As a result, the shelter was eventually forced to terminate the program. The shelter in question reports that in the cases of the few referrals that they did receive, teens were very reluctant to follow the rules of the shelter. In addition, other adult clients often gave the minors unsolicited advice. More often than not, this advice was not appreciated and caused tension between adults and minors.

In addition to the views expressed by the teens, shelters reported that even pregnant/parenting teens that are aware of youth shelters do not want to use them for fear that their children will be taken by DCFS. Still other youth service providers reported that teens had told them they would never seek shelter.

➤ **Emancipation**

During the course of interviews and focus groups, it became apparent that there was a certain amount of misinformation regarding Illinois emancipation laws. Some providers were under the mistaken impression that a minor became automatically emancipated if she became pregnant.

Emancipation is a legal process by which a minor obtains the right to consent in such matters as health care and education, and can enter into certain legal contracts. It is only granted in special circumstances and the court can decide exactly in what regard and to what degree the minor is partially emancipated. Full emancipation gives a minor total responsibility for life decisions; however, the court maintains jurisdiction over the emancipated minor until (s)he reaches the age of 18.



The Illinois statute on emancipation outlines the judicial method by which a minor is emancipated, and allows “minors 16 and older to obtain the legal status of an emancipated person with power to enter into valid legal contracts if the minor has demonstrated the ability and capacity to manage his own affairs and to live wholly or partially independent of his parents or guardian” (750 ILCS 30). The petition for emancipation must be filed by an adult on behalf of the minor. The act stipulates that emancipation will not be granted if there is any objection by the minor, his parents or guardian. Emancipation is rarely granted in Illinois.

Although the emancipation statute does not address any other means of emancipation, it is customarily accepted that either marriage or enlisting in the military—both of which also require parental consent—results in automatic emancipation.



This may be because the statute which defines relevant terms in the description of the Department of Children and Family Services defines a child as “any person under the age of 18 years unless legally emancipated by reason of marriage or entry into a branch of the United States armed services” (20 ILCS 515/10).

Illinois Shelter Recap:

Domestic violence shelters in Illinois are not licensed by DCFS to take in minors as the primary client, and cannot house them unless they are emancipated. Youth shelters that *are* licensed by DCFS are only allowed to shelter minors for up to 120 days. Unless a minor is emancipated by the courts, is married, or in the military, parental consent is required in order to obtain any type of shelter.

➤ **Emancipation and Shelter in Other States**



• **Emancipation**

The emancipation laws of the 50 remaining states⁴ and the District of Columbia are more or less similar to that of Illinois. Emancipation is typically granted to individuals under the age of 18 who wish to be released from paternal care and responsibility. However, such decrees are only granted if certain conditions apply. For example, the minor must be living apart from his/her parents, capable of self-support, managing his/her own financial affairs, and the court must decide if emancipation is in the best interests of the minor.

A total of twenty states—like Illinois—allow minors to petition for emancipation but specify an age, typically 16 years old. Twenty states and the District of Columbia mention

⁴ For purposes of this report, Puerto Rico is considered to be a state.

emancipation in their laws, yet they do not outline a specific process or a certain age. Twenty-three states and the District of Columbia indicate that emancipation is automatically granted to married minors or minors who have joined the armed forces.

Although Illinois' emancipation laws seem more well defined than those of many other states, there are several states whose laws are more helpful to minors who need to exit a dangerous home environment. Oklahoma, Tennessee and Mississippi do not specify an age and therefore allow any minor who desires emancipation to file a petition. Maine allows a minor to petition if the minor refuses to live with his (her) parents. New Jersey considers a minor emancipated if the minor has a child or is pregnant.

Still other states indirectly allow more autonomy for minors. The Coalition of Domestic Violence in Alaska reports that if the minor informs a shelter that (s)he is emancipated, the shelter will not be held liable if it later becomes evident that this is not the case.

- ***Shelter***

The Covenant House in New Jersey has already examined the laws of other states as they pertain to youth shelter.⁵ Although, once again, Illinois appears to have one of the better-defined statutes pertaining to this issue, several states are more helpful to minors in terms of parental notification and long-term housing.

Covenant House reports that Illinois is one of only seven states that have enacted a comprehensive runaway and homeless youth act. According to the Covenant House, such acts “give young people in crisis a right to seek emergency shelter on their own without the need of a court order; provide for coordination among runaway and homeless youth service providers; and fund outreach projects, emergency shelters and long-term independent living programs.” Another thirteen states have enacted runaway and homeless youth laws, which outline coordinated services such as emergency, transitional and outreach services.

However, despite Illinois attempts to address youth homelessness, several others states have enacted laws that are more helpful to minors. As mentioned earlier, in Illinois minors are not allowed to be sheltered for more than 120 days and parental consent is required. Although federal law requires parental notification, Alabama, Louisiana and New York all specify that parents need not be notified when there are compelling reasons against it. In addition, Louisiana authorizes shelters to obtain medical services without parental consent.

New York is the only state whose law outlines a transitional living program for minors. New York statutes provide that “transitional independent living support programs” may provide supportive services, for a period of up to twelve months, to enable homeless youth between the ages of sixteen and twenty-one to progress from crisis care and transitional care to independent living (NY CLS Exec § 532-d). Although the state still encourages parental notification and reunification, it allows shelters to consider the best interests of the minor and provides minors with the possibility of finding safe housing.

⁵ Most information on specific state statutes pertaining to shelter was obtained via the Covenant House website, www.covenanthouse.org.

➤ **Local Efforts at Licensing Changes and “Partial” Emancipation**

The Chicago Coalition for the Homeless Youth Committee is currently working to change Department of Children and Family Services licensing requirements in order to expand transitional living services to include minors. Current regulations only allow providers to shelter minors for up to 120 days and transitional facilities are not licensed to take in minors. The Youth Committee’s proposed changes would allow providers to offer transitional shelter and services to minors beyond 120 days.

In addition to these modifications, the Youth Committee is proposing a change in the emancipation statute that would create what it terms “partial emancipation.” This partial emancipation would allow minors to seek court emancipation strictly for the purpose of obtaining shelter. Partial emancipation would enable minors to seek shelter provided by authorized youth service providers without needing parental consent. Although the proposed changes do not outline a time frame for emancipation, the court may modify the order if the youth shelter later determines that its services are no longer appropriate.

B. Domestic Violence Definitions and Orders of Protection

Legal service providers reported that the Illinois statute on domestic violence is vague as to the question of whether minors, like adults, can seek orders of protection against intimate partners. In addition, providers reported that unclear jurisdiction, as well as unfriendly and intimidating courts, make it difficult for minors to seek protection. Although CIR found that Illinois statutes on this issue were more inclusive than the majority of those in other states, several states give minors more autonomy in the process.

There are two different types of statutes that outline domestic violence—in both Illinois and in other states: those that provide the state’s definition of domestic violence (and that list the “household members” covered by the statute), and those that list the individuals who may seek an order of protection.

➤ **Illinois Definitions**

Domestic violence-related statutes exist under both the Criminal Procedures Section (within Chapter 725) and under the Domestic Violence Act (within Chapter 750). The definitions and stipulations outlined in the statutes are identical in both chapters except where noted. (Those sections that potentially apply to minors have been emphasized.)



The domestic violence statutes define "Family or household members" and hence those who can seek an order of protection, as including

"spouses, former spouses, parents, children, stepchildren and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly have a child in common, persons who share or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, and persons with disabilities and their personal assistants. For purposes of this paragraph, neither a casual acquaintanceship nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute a dating relationship" (725 ILCS 5/112A-3 and 750 ILCS 60/103).

➤ Illinois Orders of Protection



Domestic violence statutes identify the following persons as being protected by the statute:

"(i) any person abused by a family or household member; (ii) any minor child or dependent adult in the care of such person; and (iii) any person residing or employed at a private home or public shelter which is housing an abused family or household member..." (The statute also includes any high-risk adult with disabilities who is abused, neglected, or exploited by a family or household member.)

"(b) A petition for an order of protection may be filed only by a person who has been abused by a family or household member or by any person on behalf of a minor child or an adult who has been abused by a family or household member and who, because of age, health, disability, or inaccessibility, cannot file the petition. However, any petition properly filed under this Article may seek protection for any additional persons protected by this Article" (725 ILCS 5/112A-4 and 750 ILCS 60/201).

The above statutes clearly protect a dependent minor in cases where the offender is a household member and not an intimate partner by allowing an adult to file for an order of protection on the minor's behalf. Although the above statutes do not specify an age requirement for the petitioner in cases of intimate partner violence, additional statutes state that



"the petitioner shall not be denied an order of protection because petitioner or respondent is a minor" (725 ILCS 5/112A-14 and 750 ILCS 60/214),

thus implying that minors are entitled to seek orders of protection against intimate partners.

In addition, case notes state the following:



“Protection of a Minor:

An order of protection under this Act may be entered against a minor. Wright v. Wright, 211 Ill. App. 3d 659, 164 Ill. Dec. 543, 583 N.E.2d 97 (4 Dist. 1991).” 725 ILCS 5/112A-4 and 750 ILCS 60/201

Together with the statutes outlined above, this case note suggests that minors are entitled to seek orders of protection against intimate partners—whether or not the offenders are adults or minors. Although a few service providers believed that a minor had to be emancipated in order to seek an order of protection, CIR’s research indicates that this is not the case.

➤ **Guardian Ad litem**

Although these statutes seem to explicitly give minors the same right to obtain an order of protection as any adult, in practice minors must seek adult help. Cook County judges require a minor to have a *guardian ad litem* (an adult who seeks an order of protection on the minor’s behalf) in order to seek an order of protection. According to the Domestic Violence Coordinator of the Circuit Court, this adult is usually a parent or guardian, but is sometimes another relative or a teacher.

Since many teens do not want their parents or other adults to know about any domestic abuse, this requirement for a *guardian ad litem* could potentially present a serious problem. Teens who do not view protection orders as possible solutions could potentially be in greater danger from their abuser.

During a group meeting about the issue, one provider noted that in Peoria, Illinois, judges do not require the presence of a *guardian ad litem*.

➤ **Unclear Jurisdiction/Intimidating Courts**

Legal service providers describe the process of getting of an order of protection for a minor as a challenging procedure and report that courts do not make it easy for minors. One barrier to minors obtaining orders of protection is the complexity of the judicial process; the procedure is described by providers as a “very gray area” that varies on a case by case basis.

When a minor seeks an order of protection against an adult, the case goes either to criminal court or to the civil court, depending on whether the minors seeks a criminal or civil order of protection. (If the adult were legally responsible for the minor, the case would go to the abuse and neglect division of juvenile court.)

The issue becomes much more complicated when a minor seeks an order of protection against another minor, however. In such instances, the case goes to criminal court, to the civil court, or to the delinquency division of the juvenile court.

Staff at the Juvenile Division of the Circuit Court report that it has no jurisdiction over cases in which a minor seeks an order of protection against an intimate partner; it deals only with orders of protection filed by a parent against a minor.

However, both providers and the state's attorney's office report that judges at the Domestic Relations court attempt to send the cases over to the Circuit Court's Juvenile Division, despite its lack of jurisdiction. When CIR spoke with staff in the Domestic Relations Judge's Office, it became apparent that the office believed the case should go to the Juvenile Division.

Legal service providers report that in cases of domestic violence, it is extremely complicated for a minor to seek an order of protection against another minor if the police and the state's attorney are not involved in the case. In juvenile court, such a case would be impossible without their involvement. In civil court, it would be theoretically possible but difficult in practice.

In addition to jurisdiction problems, providers say that minors feel threatened and intimidated by the courts. State's Attorney representatives concur with this view, and also note that the order of protection is written in legalese that is not easy for non-lawyers to understand. In the criminal court the victim witness supervisor will help the victim fill out the necessary petition, but in the civil court the victim must fill it out herself. Victim witness supervisors have written out "cheat sheets" to help victims through the process; however, the process remains intimidating.

➤ **Lack of Awareness and Distrust of System**

Another significant barrier to the procurement of protection for teens is their lack of awareness about orders of protection as an option, and their distrust of the judicial system and law enforcement. It became apparent in teen focus groups that although teens had heard about criminal orders of protection, they were not aware of civil orders of protection. Teens expressed extremely negative views about orders of protection, saying that they knew the process took a long time and that by the time the order was granted the perpetrator could have done much more harm.

In addition, teens discussed how the friends of abusers would report back any action taken by the victim to the abuser. This is a critical problem for those whose boyfriends are involved in a gang. The teen girls reported that their actions are often scrutinized by their partner's fellow gang members and providers discussed how gang-involvement puts increased pressure on boys and men to control their girlfriends.

When CIR staff explained the difference between civil and criminal orders of protection, noting that a civil order could be granted within three hours, teens continued to express doubt

about relying on an order of protection for protection. Teens discussed their lack of confidence in police response time at length, and explained that even with an order of protection, the police would not arrive in time to prevent the abuser from inflicting harm. Teens were also adamant in their belief that police do not take domestic violence between teens seriously. One teen said that she knew someone who had called the police when she was fighting with her boyfriend. Once the police established that it was a dating relationship, the officers told the victim to “stay away from him” and left.

Illinois Orders of Protection Recap:

Minors have the right to seek orders of protection against intimate partners—whether or not the offenders are adults or minors. In practice, minors must seek adult help in Cook County. Judges require a minor to have a *guardian ad litem* in order to seek an order of protection.

➤ **Definitions and Orders of Protection in Other States**



Statutory research of other states showed that Illinois statutes give minors more protection than do most states. However, several states have recently changed laws to allow minors even greater control in the process.⁶

• ***Domestic Violence Definitions***

In order to determine how statutory laws affect teens in violent relationships, CIR looked at definitions of domestic violence to discover who is covered within the definition, as well as who is allowed to seek orders of protection. What tends to vary between states’ definitions is the type of relationship and whether the individuals have a child in common.

Twenty-two states include unmarried couples that are in a dating relationship as a category in their statute. Nine out of 50 states include individuals who are in a sexual relationship and the District of Columbia and New Hampshire also cover individuals who maintain or have maintained a romantic relationship—not necessarily including a sexual relationship.

Minors

The issue of how domestic violence laws pertain to minors is more complicated. If dating teens do not have a child in common and have never lived together, then they cannot access legal protection in the twenty-eight states that do not include individuals who are dating in

⁶ Stacy L. Brustin’s article “Legal Responses to Teen Dating Violence,” *Family Law Quarterly*, Vol. 29, No. 2, Summer 1995, also outlines state statutes that pertained to minors and domestic violence. However, several states have changed their domestic violence laws since the article’s publication.

their statute. However, nine states explicitly include minors in their definition of domestic violence.

- **Orders of Protection for Minors**

Parallel to the issue of domestic violence definitions is the issue of who can petition for an order of protection. Many state statutes on orders of protection are written vaguely, making it difficult to decipher the law. Twenty states and the District of Columbia have statutes that are subject to interpretation and are potentially broad enough to include minors.

Only five states—California, New Hampshire, Oklahoma, Rhode Island and Tennessee—explicitly allow minors to seek an order of protection.

Guardians Ad Litem

In most states that allow minors to seek orders of protection, as in Illinois, the minor must have an adult relative, household member or guardian seek it on her behalf. Seventeen states explicitly allow a parent, guardian, or other adult to file a petition on behalf of a minor. In addition, three states *appoint a guardian ad litem* if necessary.

CIR’s research indicated that California, which recently amended its statute on orders of protection, grants minors the greatest autonomy. The relevant statute now allows a minor 12 years of age or older to appear in court *without a guardian ad litem* to request a protective order, *if* the offender is or has been a dating partner. If the court does not think that the minor has the capacity to file by herself, it can order a *guardian ad litem* to be appointed. In addition, the court is required to notify the parent after the fact.⁷

The New Hampshire statutes—like those in Illinois—state only that “the minority of an individual seeking assistance from any domestic violence program...shall not preclude provision of such requested services” (RSA 173-B: 7). However, the New Hampshire Coalition Against Sexual and Domestic Violence reports that legal authorities interpret the statute as giving minors the power to seek orders of protection without *guardians ad litem*.

C. Parental Consent Issues for Health Services

In Illinois, a confusing patchwork of laws operates to prevent many teens from receiving needed health services. During focus groups, service providers discussed a lack of clarity around health consent issues, and cited barriers to providing service such as stringent mental health counseling laws. Statutory research revealed that Illinois laws give minors similar powers of consent for general health services compared to other states, but grant minors considerably less power to consent for mental health counseling.

⁷ Information about California was obtained from the statute and through an interview with the Legal Aid of San Mateo County, 650.573.3945.

➤ Parental Consent and Health Services

Focus group participants pointed out that health service providers are often a teen's only access to the social services system. However, when teens realize that parental consent is required to access health services, they often decide not to seek help. Knowledge of confidentiality becomes directly proportional to the frequency with which teens access health care services.



Illinois law allows a minor who is a parent to consent to the performance upon his or her child of a medical or surgical procedure by a physician licensed to practice medicine and surgery or a dental procedure by a licensed dentist (410 ILCS 210/2).

Although some service providers were under the impression that minor parents could only consent to services for their children and not themselves, this is not actually the case:



Illinois law allows minors who are married, pregnant or parenting to consent to the performance of a medical or surgical procedure for themselves by a physician licensed to practice medicine and surgery (410 ILCS 210/1).

However, service providers report that many pregnant minors are being asked for insurance information in order to pay for services. Teens may be reluctant to provide this information since their visit might appear on their parent's bill. Health service providers who seek insurance information may be dissuading teens from seeking necessary services by violating assumed confidentiality.

In addition to services available to married, pregnant or parenting teens, some teens may qualify for services under the Mature Minor Doctrine. According to the Illinois Caucus for Adolescent Health "Consent and Confidentiality" Fact Sheet⁸, case law stipulates that a health care provider can honor an adolescent's informed consent to treatment if a minor is 14 years or older; (s)he has demonstrated sufficient maturity to understand the consequences of her action; the minor is mature enough to exercise the judgement of an adult; and the intervention is not serious or for the benefit of someone other than the patient.



Doctors may provide birth control services and information to any minor who is married; who is a parent; who is pregnant; who has the consent of his/her parent or legal guardian; to whom the failure to provide such services would create a serious health hazard; or who is referred for such services by a physician, clergyman or a planned parenthood agency (325 ILCS 10/1).

⁸ The Fact Sheet is available from the Illinois Caucus for Adolescent Health, 28 E. Jackson, Ste. 710, Chicago, IL 60604, 312.427.4460.

Minors can also give consent to health services in the case of an emergency, in case of sexual assault, and for services related to the diagnosis or treatment of STDs or drug and alcohol addiction (410 ILCS 210/3, 210/4, 210/5).

➤ Health Consent Issues in Other States



Statutory research revealed that Illinois laws respected confidentiality somewhat more than most states. Eleven states allow minors to request contraceptive services without parental consent or notification, but twenty-five have no law on the issue. Four states allow minors to consent if they have been referred by a physician or family planning clinic or if impeding services would result in a serious health hazard. Oklahoma allows a minor to consent only if she is pregnant. In addition, twenty-six states allow pregnant minors to obtain prenatal care without parental consent; forty-nine states and the District of Columbia allow minors to obtain medical care for STD's; thirty-eight states allow minors to consent to treatment for alcohol or drug abuse; and twenty-four states allow minors with a child to authorize treatment for the minor or the minor's child.

Twenty-three states do not have a law on prenatal care for minors, one state does not have a law on STD services, and four do not have a law pertaining to alcohol or drug abuse. Although these services are available to minors without parental consent, in some states physicians are allowed to inform the minor's parent if they believe it is in the best interests of the minor.

➤ Mental Health Counseling

In every focus group, service providers spoke about the difficulties in providing counseling to adolescents because of Illinois law.



Currently, Illinois law stipulates that a minor 12 and older can seek mental health counseling for up to five 45-minute sessions, at which point parental consent is required (405 ILCS 5/3-501). This law applies only to those under the age of 17—an important fact about which many providers seem unaware.

Another Illinois statute allows treatment and counseling of a minor without parental consent if (s)he is the victim of a criminal sexual assault or sexual abuse (410 ILCS 210/3). In addition to counseling for sexual assault, Illinois law allows minors to seek counseling for drug and alcohol abuse without parental consent (410 ILCS 210/5).

Mental Health service providers and domestic violence counselors reported that the mental health law severely limits their ability to provide meaningful services to teens. Minors experiencing significant problems often do not want their parents to know about their attempts to seek help, let alone the specific issues that warrant counseling. Once a minor is informed that a parent must be notified of the counseling, (s)he often does not return.

According to providers, adolescent domestic violence victims are especially vulnerable to this law. Teens are often reluctant to admit to their parents that they are even dating, let alone involved in an abusive relationship. Like adult victims, they are often embarrassed by their relationship. For adolescents, this embarrassment is exacerbated by a fear of increased authoritative measures.

Providers reported that in other cases, the boyfriend has aligned himself with a parent, which makes the disclosure of abuse even more difficult for the teen. A teen may fear a parent's unwillingness to believe her, and becomes reluctant to inform the parent. In one of the teen focus groups, a teen reported that her mother had allowed the teen's ex-boyfriend to live in the house because she thought so highly of him. The ex-boyfriend was abusive to the teen and although she had told her mother about his actions, the mother refused to believe her daughter. At the time of the focus group the abuse was continuing; the teen expressed a desire to seriously harm the ex-boyfriend and had already thought of several ways in which to do so.

Gay, lesbian, bisexual and transgendered teens are also particularly vulnerable to this law. Focus group participants spoke to us about teens' fear of parental reaction once a teen's sexual orientation is revealed. In addition to potential physical backlash, providers report that parents who find out that their son or daughter is involved in a relationship with someone of the same gender—whether or not the relationship is abusive—frequently evict their child from the home.

Focus group participants also reported that parental conduct itself is often part of the basis for counseling. If a parent has a difficult or abusive relationship with the teen, then parental involvement in counseling can have a very negative effect. In some cases, parental notification can become very dangerous for the teen.

Service agencies report that as a result of the mental health consent law, the five allowable sessions are often primarily devoted to discussing how the teen can inform her parent of the sessions. Focus group participants discussed how trust between the teen and the counselor would build up after a few sessions, only to be stripped away when the providers began to focus on parental involvement. Some counselors do not even begin the counseling process without prior parental consent. In any case, it rarely extends beyond the five sessions and the minor is forced to terminate the counseling that (s)he so desperately needs.

Some providers had begun to creatively work around the issue by framing it differently. They were offering counseling under the guise of peer mentoring and parenting programs, as well as providing opportunities for teen group meetings. Social workers with some school association had an easier time obtaining parental consent. Our discussions with service organizations reinforced the idea that mandatory notification reduces the likelihood that teens will seek treatment.

Focus group participants were in agreement that extending the number of sessions or eliminating the parental consent requirement altogether would greatly enhance their ability to offer services to teens. They believed that adolescents would feel more comfortable discussing issues. Youth workers would have enough time to cultivate the necessary

counselor-patient relationship, enabling minors to disclose information about deeper, more troubling issues. With longer-term counseling, the worker and teen might also be able to develop a plan for informing the parent. Some participants mentioned that if the mental health consent rule were eliminated, more providers would become aware of domestic violence among teens.

Illinois Mental Health Consent Issues Recap:

A minor at least 12 years old and under the age of 17 can seek mental health counseling for up to five 45-minute sessions, after which parental consent is required. A minor can seek counseling without parental consent if (s)he is the victim of a criminal sexual assault or sexual abuse. A minor can also seek counseling for drug and alcohol abuse without parental consent.

➤ **Mental Health Consent Issues in Other States**



Illinois mental health statutes do not provide minors with as much confidentiality as do other states; Illinois has a considerably limiting statute compared to the rest of the states.

Twenty-one states allow minors to consent for outpatient mental health services, while twenty-nine states have no law pertaining to the issue. Of the 21 states that do give minors the capacity to consent, some apply certain conditions before a minor can give consent. For example, eleven of those 21 states specify that a minor must be at least a certain age before he/she can give consent. The age of consent for mental health services ranges from 12 to 16 years old.

Only three states—like Illinois—limit the amount of time the minor can receive services. For instance, in Florida, treatment cannot exceed two visits in any one-week period before parental consent is required, unless such treatment pertains to a crisis situation. In Michigan, treatment is limited to not more than 12 sessions or four months per request for services. Afterwards, the services “shall be terminated,” or the parents shall be notified.

In Connecticut, the counselor may reevaluate the situation after six sessions of outpatient mental health treatment. If the counselor determines that parental notification or involvement would be “seriously detrimental to the minor’s well-being, he (she) shall document such determination in the minor’s clinical record, review such determination every sixth session thereafter and document each review” (Conn. Gen. Stat 19a-14c).

Montana and New York allow a minor to consent if parental consent is not immediately available and treatment is necessary. Oregon stipulates that by the end of the treatment, the minor’s parents will be involved (it does not impose a specific duration of treatment).

➤ **Teens' Views of Counseling and Health Services**

When teens were asked about counseling in Parents Too Soon focus groups, their responses were much more positive than they had been about shelter. Teens were much more open to idea of counseling and many reported that they had sought this type of help in the past. However, teens expressed doubt about the value of counseling when dealing with abusive relationships. They believed that it would not prove useful without the involvement of the abuser.

When asked with whom they would feel comfortable disclosing incidences of violence, teens responded with very few suggestions. They said that they would perhaps tell church staff, their mothers, counselors, and those in the Parents Too Soon program. When asked if they would ever tell health professionals about their situation, several teens said that they would tell a health professional only if she were female. The majority of the teens, however, said that they would never discuss it with a health professional. The groups of teen mothers were understandably very apprehensive about disclosing abuse for fear that their children would be removed from their custody.

IV. Recommendations

In order to better serve teen victims of domestic violence, we must

- ✓ Expand transitional living services to include minors and create partial emancipation so that minors can seek shelter without parental consent in cases of family or domestic violence;
- ✓ Ensure the fulfillment of the Illinois Domestic Violence Act, which allows for minors to seek orders of protection on their own behalf, and clarify jurisdiction so that courts are friendlier to minors;
- ✓ Give counselors more autonomy to determine whether parental notification of mental health counseling is in the best interest of the minor (when otherwise not provided for by law as in cases of rape and sexual assault), or extend the number of counseling sessions that do not require parental consent; and
- ✓ Educate service providers, officials, and teens about their rights and responsibilities concerning the issue of teens and domestic violence.

◆ Shelter

- We recommend expanding transitional living services so that minors can be served beyond 120 days; and creating partial emancipation that would allow minors to seek shelter provided by authorized youth service providers without securing parental consent in cases of family or domestic violence.
- We also recommend that youth shelters begin to provide on-site domestic violence-related services through partnerships with domestic violence programs. The provision of such services will enable domestic violence shelters—which cannot and perhaps *should* not shelter minors—to provide minors with needed services.

Although such changes offer only a partial solution to the problem, we will focus more upon this recommendation and other programmatic issues in our second phase of research.

◆ Orders of Protection

- We recommend that Cook County courts consistently allow minors to seek orders of protection without *guardians ad litem* (as authorized by the Illinois Domestic Violence Act). In addition, jurisdiction must be clarified so that the process of obtaining an order of protection is streamlined and made “user-friendly” for minors. This streamlining process might entail moving all cases involving minors seeking protection against intimate partners out of the juvenile court into the domestic violence court. We recommend that a specific protocol be created for dealing with these cases.
- We recommend that court administrators begin to track the numbers of orders of protection sought by minors against intimate partners and their outcomes—in all courts. This will enable legal providers as well as circuit court officials to have a better idea of how to serve this population.
- We recommend that teens be educated about civil orders of protection. As discussed earlier, many teens did not know about civil orders of protection as a potential solution. Although teens were skeptical about the usefulness of orders of protection, adult domestic violence victims were also skeptical before the process was put into place. Although protection orders do not protect the domestic violence victim in all cases, the process works well for many adult victims. We believe that it can eventually also protect many teen victims.
- We recommend that the issue of police response to teen calls be addressed in order to ensure that orders of protection are effective. We also recommend that the domestic violence and youth divisions of the Chicago Police Department collaborate to educate officers about the seriousness of the problem of domestic violence among teens.

◆ ***Mental Health***

- We recommend that Illinois law be changed in order to give counselors more autonomy to determine whether parental notification of counseling is in the best interest of the minor as they have in Connecticut.
- As an alternative to this first recommendation, we recommend extending the number of counseling sessions that do not require parental consent as in Michigan.

◆ ***Education***

- Finally, the widespread confusion about the many laws and regulations concerning this issue has led us to recognize the urgent need for citywide education about the rights and responsibilities of service providers, officials, and teens. The creation of mechanisms that will readily disseminate this information will be critical to the provision of needed services.

Working Groups

The Center for Impact Research, the City of Chicago Mayor’s Office on Domestic Violence, and the Illinois Caucus for Adolescent Health will coordinate working groups with representatives of the domestic violence provider community and other interested social service organizations in order to work toward the implementation of these recommendations.