

## Child Custody and Domestic Violence By State

7/2014

Child Custody Statute & Definition of DV	Best Interest Factors Include DV?	Rebuttable Presumption <i>Against</i> Custody to Batterer?	Best Interest Factors Include "Friendly Parent"?	Rebuttable Presumption of Joint Custody?	Representation for child?	Child Custody/ Support in CPO?	Can the court enter a CPO as to the child? Who can file?
<b>Alabama</b> <a href="#">ALA. CODE §30-3-1 ET SEQ (2014)</a>  DV DEF. AT: §30-3-130 (by reference to criminal code)	<b>Yes</b>  §30-3-152	<b>Yes</b>  §30-3-131 §30-3-133	<b>Yes</b>  §30-3-152(a)(3)	<b>Yes</b>  §30-3-152(c) (if joint custody is requested by both parties – granted unless court makes specific findings as to why joint custody should not be granted)	<b>Statute is silent</b>	<b>Yes/Yes</b>  § 30-5-4(d)	<b>Yes</b>  A parent, legal guardian, legal custodian, or State Department of Human Resources on behalf of a minor  § 30-5-5(a)
<b>Alaska</b> <a href="#">ALASKA STAT. §25.20.060 ET SEQ (2014)</a>  DV DEF. AT: §18.66.990 (criminal code)	<b>Yes</b>  §25.24.150(c)(7)	<b>Yes</b>  §25.24.150(g)	<b>Yes</b>  §25.24.150(c)(6) (unless there is past/continuing DV)  §25.20.090(6)(E) (unless there is past/continuing DV)	<b>No</b>  §25.20.060(c) (allows court to exercise discretion in awarding shared custody)	<b>Yes</b>  §25.24.310 (attorney)	<b>Yes/Yes</b>  §18.66.100(c)(9); §18.66.100(c)(12)	<b>Yes</b>  Parent/ guardian or rep. of the court can file on behalf of child under 18 (abuser must have committed a crime of DV against child; must have household relationship between child and abuser).  §18.66.100(a)

Prepared by the American Bar Association Commission on Domestic & Sexual Violence. <http://www.ambar.org/cdsv>

We are always grateful to receive corrections and updates at [abacdvt@americanbar.org](mailto:abacdvt@americanbar.org) The law is constantly changing! Please independently confirm the data you find here.

## Child Custody and Domestic Violence By State

7/2014

Child Custody Statute & Definition of DV	Best Interest Factors Include DV?	Rebuttable Presumption <i>Against</i> Custody to Batterer?	Best Interest Factors Include "Friendly Parent"?	Rebuttable Presumption of Joint Custody?	Representation for child?	Child Custody/ Support in CPO?	Can the court enter a CPO as to the child? Who can file?
<b>Arizona</b> <a href="#">ARIZ. REV. STAT. §25-401 ET SEQ. (2014)</a>  DV DEF. AT: §13-3601(1) (criminal code)	<b>Yes</b>  §25-403(A)(8)	<b>Yes</b>  §25-403.03(D)	<b>Yes</b>  § 25-403(A)(6)	<b>No</b>  §25-403.01(A)  (allows court to exercise discretion in awarding shared custody)	<b>Yes</b>  Family Law Rule of Practice and Procedure 10(A)(1) (best interests attorney, child's attorney, or court-appointed advisor)	<b>No/No</b>  See §13-3602(S)(1)	<b>Yes</b>  Parent, legal guardian, or person who has legal custody of the minor  §13-3602(A)
<b>Arkansas</b> <a href="#">ARK. CODE §9-13-101 ET SEQ. (2013)</a>  DV DEF. AT: §9-15-103 (3)	<b>Yes</b>  §9-13-101(c)(1)	<b>Yes</b>  §9-15-215(c); §9-13-101(c)(2)	<b>Yes</b>  §9-13-101(b)(2)	<b>Yes</b>  §9-13-101 (a)(1)(A)(iii) (concerning an action for divorce)	<b>Yes</b>  §9-13-106(a) (court-appointed attorney when judge believes attorney would facilitate custody case and protect rights of child)	<b>Yes/Yes</b>  §9-15-205	<b>Yes</b>  Any adult on behalf of another family or household member, DV shelter worker or organization  §9-15-201(d)
<b>California</b> <a href="#">CAL. FAM. CODE §3000 ET SEQ. (2013)</a>  DV DEF. AT: §3044, by reference to §6203 (CPO code) See also §6211	<b>Yes</b>  §3011(b)	<b>Yes</b>  §3044(a)  See also §3020	<b>Yes</b>  §3040(a)(1)	<b>No/Yes</b>  §3040(a) and (b) (preference is to both parents jointly OR either parent)  §3080 (presumption if both parents agree to joint custody)	<b>Yes</b>  §3150 (court-appointed private counsel)	<b>Yes/Unclear</b>  §3031/Unclear	<b>Yes</b>  Parent or guardian may petition on behalf of a child; minor age 12 or over can appear in court without a guardian, counsel, or GAL to request a CPO.  §6211

Prepared by the American Bar Association Commission on Domestic & Sexual Violence. <http://www.ambar.org/cdsv>

We are always grateful to receive corrections and updates at [abacdvt@americanbar.org](mailto:abacdvt@americanbar.org) The law is constantly changing! Please independently confirm the data you find here.

## Child Custody and Domestic Violence By State

7/2014

Child Custody Statute & Definition of DV	Best Interest Factors Include DV?	Rebuttable Presumption <i>Against</i> Custody to Batterer?	Best Interest Factors Include "Friendly Parent"?	Rebuttable Presumption of Joint Custody?	Representation for child?	Child Custody/ Support in CPO?	Can the court enter a CPO as to the child? Who can file?
<b>Colorado</b> <a href="#">COLO. REV. STAT. §14-10-101 ET SEQ. (2014)</a> SEE ALSO § 14-10-104.5  DV DEF. AT: §14-10-124(4)	<b>Yes</b>  §14-10-124(1.5)(a)	<b>Yes</b>  §14-10-124 (4)(a)(I)-(II)	<b>Yes</b>  §14-10-124 (1.5)(a)(VI) (exception for parent trying to protect child from witnessing DV)	<b>No</b>	<b>Yes</b>  §14-10-116(1) (court-appointed attorney) 1001	<b>Yes, for 120 days max/ Unclear</b>	<b>Yes</b>  Parent can file on behalf of minor child; mandated reporters may file  §13-14-101(2)
<b>Connecticut</b> <a href="#">CONN. GEN. STAT. §46b-56 ET SEQ. (2014)</a>  DV DEF. AT: §46b-38a	<b>Yes</b>  §46b-56(c)(14)	<b>No</b>	<b>Yes</b>  §46b-56(c)(6)	<b>Yes</b>  §46b-56a(b) (where parents have agreed to joint custody)	<b>Yes</b>  §46b-54(b) (attorney)	<b>Yes/No</b>  §46(b)-15(b)	<b>Yes</b>  Family or household member includes: children of D...[&] someone 16 or older who is living with D  §46b-38(a)-(c)
<b>Delaware</b> <a href="#">DEL. CODE TIT. 13 §721 ET SEQ. (2014)</a>  DV DEF. AT: 13 §703A	<b>Yes</b>  13 § 722(a)(7)	<b>Yes</b>  13 § 705A	<b>Possibly</b>  See 13 §722 (a)(6)	<b>No</b>	<b>Yes</b>  13 §721(c)	<b>Yes/Yes</b>  10 § 1045(5), 10 § 1045(6)	<b>Yes</b>  Parent or the Division of Child Protective Services  10 §1041(3)
<b>District of</b>							

Prepared by the American Bar Association Commission on Domestic & Sexual Violence. <http://www.ambar.org/cdsv>

We are always grateful to receive corrections and updates at [abacdvt@americanbar.org](mailto:abacdvt@americanbar.org) The law is constantly changing! Please independently confirm the data you find here.

## Child Custody and Domestic Violence By State

7/2014

Child Custody Statute & Definition of DV	Best Interest Factors Include DV?	Rebuttable Presumption <i>Against</i> Custody to Batterer?	Best Interest Factors Include "Friendly Parent"?	Rebuttable Presumption of Joint Custody?	Representation for child?	Child Custody/ Support in CPO?	Can the court enter a CPO as to the child? Who can file?
<b>Columbia</b> <a href="#">D.C. CODE §16-914 ET SEQ. (2014)</a>  DV DEF AT: §16-1001	<b>Yes</b>  § 16-914(a)(3)(F)	<b>Yes</b>  § 16-914(a)(2)	<b>Possibly</b>  See §16-914(a)(3)(G)	<b>Yes</b> (unless a parent commits an intra-family offense under §16-1001(8)  §16-914(a)(2)	<b>Yes</b>  §16-914(g) (for good cause and upon its own motion)	<b>Yes/No</b>  §16-1005(c)(6)	<b>Yes</b>  Parent, guardian, custodian, or other appropriate adult can file on behalf of minors under 16. Minors 16 and older can file on their own behalf.  §16-1003(a)
<b>Florida</b> <a href="#">FLA. STAT. §61.13 ET SEQ. (2014)</a>  DV DEF. AT: §741.28	<b>Yes</b>  §61.13(3)(m)	<b>Yes</b>  §61.13(2)(c)(2) (if parent has been convicted of a 1 <sup>st</sup> degree misdemeanor or higher involving DV)	<b>Yes</b>  §61.13(3)(a), (l)	<b>Yes</b>  §61.13(2)(c)(2)	<b>Yes</b>  §61.401 (GAL and/or attorney)	<b>Yes/Yes</b>  § 741.30(3)(i)	<b>Yes</b>  A parent or legal guardian of a minor child living at home.  §784.046(2)(a)
<b>Georgia</b> <a href="#">GA. CODE §19-9-1 ET SEQ. (2014)</a>  DV DEF. AT: §19-13-1	<b>Yes</b>  §19-9-3(a)(3)(P) §19-9-3(a)(4)	<b>No</b>	<b>Yes</b>  §19-9-3 (a)(3)(N) (subject to best interest)	<b>No</b>  §19-9-3(a)(1)	<b>Statute is silent</b>	<b>Yes/Yes</b>  § 19-13-4(a)(4); § 19-13-4(a)(6)	<b>Yes</b>  A person who is not a minor can file on behalf of a minor  § 19-13-3(a)

Prepared by the American Bar Association Commission on Domestic & Sexual Violence. <http://www.ambar.org/cdsv>

We are always grateful to receive corrections and updates at [abacdvt@americanbar.org](mailto:abacdvt@americanbar.org) The law is constantly changing! Please independently confirm the data you find here.

## Child Custody and Domestic Violence By State

7/2014

Child Custody Statute & Definition of DV	Best Interest Factors Include DV?	Rebuttable Presumption <i>Against</i> Custody to Batterer?	Best Interest Factors Include "Friendly Parent"?	Rebuttable Presumption of Joint Custody?	Representation for child?	Child Custody/ Support in CPO?	Can the court enter a CPO as to the child? Who can file?
<b>Hawaii</b> <a href="#">HAW. REV. STAT. §571-46 ET SEQ. (2014)</a>  DV DEF AT: §571-2	<b>Yes</b>  §571-46(a)(9)	<b>Yes</b>  §571-46(a)(9)	<b>Yes</b>  § 571-46(a)(11)	<b>No</b>  See §571-46(a) ("the court...may make an order for the custody of the child as it may seem necessary and proper...")	<b>Yes</b>  §571-46(a)(8) (GAL)	<b>Yes/No</b>  § 586-5.5(a)	<b>Yes</b>  Any adult on behalf of a family or household member who is a minor; any state agency on behalf of a minor  § 586-3(b)(1)-(2)
<b>Idaho</b> <a href="#">IDAHO CODE §32-717 ET SEQ.(2014)</a>  DV DEF AT: §39-6303(1)	<b>Yes</b>  §32-717(1)(g)	<b>Yes</b>  §32-717B(5)	<b>No</b>	<b>Yes</b>  §32-717B(4)	<b>Yes</b>  §32-704(4)	<b>Yes/No</b>  §39-6304(5)	<b>Yes</b>  Parent or guardian may file on behalf of a minor child who has been the victim of DV.  § 39-6304(2)
<b>Illinois</b> <a href="#">750 ILL. COMP. STAT. 5/601 ET SEQ. (2014)</a>  DV DEF. AT: 60/103	<b>Yes</b>  5/602(a)(6)-(7)	<b>No</b>  <i>But see 5/602(c) (rebuttable presumption against custody to batterer if "ongoing abuse")</i>	<b>Yes</b>  5/602(a)(8)	<b>No</b>  5/602(c)	<b>Yes</b>  5/601(f) (GAL)	<b>Yes/Yes</b>  60/214(b)(6) 60/214(b)(12)	<b>Yes</b>  Any person on behalf of a minor child who has been abused by a household member  60/201(b)
<b>Indiana</b>	<b>Yes</b>	<b>Yes</b>	<b>Possibly</b>	<b>No</b>	<b>Yes</b>	<b>Yes/Yes</b>	<b>Yes</b>

Prepared by the American Bar Association Commission on Domestic & Sexual Violence. <http://www.ambar.org/cdsv>

We are always grateful to receive corrections and updates at [abacdvt@americanbar.org](mailto:abacdvt@americanbar.org) The law is constantly changing! Please independently confirm the data you find here.

## Child Custody and Domestic Violence By State

7/2014

Child Custody Statute & Definition of DV	Best Interest Factors Include DV?	Rebuttable Presumption <i>Against</i> Custody to Batterer?	Best Interest Factors Include "Friendly Parent"?	Rebuttable Presumption of Joint Custody?	Representation for child?	Child Custody/ Support in CPO?	Can the court enter a CPO as to the child? Who can file?
<a href="#">IND. CODE §31-17-2-1 ET SEQ. (2014)</a>  DV DEF. AT: §31-9-2-42	§31-17-2-8(7)	§31-17-2-8.3(b) (parenting time must be supervised)	See §31-17-2-15(2) ("whether persons awarded joint custody are willing and able to cooperate and communicate...")	§31-17-2-8	§31-17-6-1 (GAL and/or court-appointed special advocate); see also §34-26-5-19	§34-26-5-9(c)(2); §34-26-5-9(c)(3)(C)	A parent, guardian, or other representative may file on behalf of a child  §34-26-5-2(a) and (b)
<b>Iowa</b> <a href="#">IOWA CODE §598.41 ET SEQ. (2014)</a>  DV DEF. AT: §236.2 (by reference to criminal code)	<b>Yes</b>  §598.41(2)(c) §598.41(3)(i)-(j)  But see §598.41(4) (BI factors do not apply if parents agree to joint custody)	<b>Yes</b>  §598.41(1)(b)	<b>Yes; unless evidence of DV</b>  §598.41(3)(e) §598.41(1)(c)	<b>No</b>  §598.41(1)(a)	<b>Yes</b>  §598.12(1)-(2) (attorney and/or GAL)	<b>Yes/Yes</b>  §236.5(b)(5); §236.5(b)(6)	<b>Yes</b>  Parent or guardian on behalf of an unemancipated minor  §§236.2(4),(6)
<b>Kansas</b> <a href="#">KAN. STAT. §23-3201 ET SEQ. (2014)</a>  DV DEF. AT: KRS § 403.720(1)	<b>Yes</b>  §23-3203(g)	<b>No</b>  §23-3205	<b>Yes</b>  §23-3203(f)	<b>No</b>  §23-3201 (pure "best interest of the child" standard)	<b>Yes</b>  §38-2205(a) (GAL)	<b>Yes/Yes</b>  (support not to exceed one year; renewable)  §60-3107(a)(4), (6)	<b>Yes</b>  A parent or adult residing with a minor may file on behalf of the minor  §60-3104(b)
<b>Kentucky</b> <a href="#">KY. STAT.</a>	<b>Yes</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>Statute is silent</b>	<b>Yes/Yes</b>	<b>Yes</b>

Prepared by the American Bar Association Commission on Domestic & Sexual Violence. <http://www.ambar.org/cdsv>

We are always grateful to receive corrections and updates at [abacdvt@americanbar.org](mailto:abacdvt@americanbar.org) The law is constantly changing! Please independently confirm the data you find here.

## Child Custody and Domestic Violence By State

7/2014

Child Custody Statute & Definition of DV	Best Interest Factors Include DV?	Rebuttable Presumption <i>Against</i> Custody to Batterer?	Best Interest Factors Include "Friendly Parent"?	Rebuttable Presumption of Joint Custody?	Representation for child?	Child Custody/ Support in CPO?	Can the court enter a CPO as to the child? Who can file?
<a href="#">§403.270 ET SEQ. (2014)</a>  DV DEF. AT: §403.720	§403.270(2)(f) §403.270(3) §403.320	See §403.270(3) ("if domestic violence...is alleged, the court shall determine the extent to which the domestic violence...has affected the child...")				§403.750(1)(f); §403.750(1)(g)	A family member may file on behalf of a minor family member  §403.725(3)
<b>Louisiana</b> <a href="#">LA. REV. STAT. §9:335 ET SEQ. (2013)</a>  <a href="#">LA. CIV. CODE ART. 131 ET SEQ. (2013)</a>  DV DEF. AT: §9:362	<b>Unclear; probably not</b>  §9:361(possibly)  Art. 134 (no)	<b>Yes</b>  §9:364(A)  Art. 137 (denial of all contact in cases of felony rape and criminal conduct resulting in death of other parent)	<b>Yes</b>  Art. 134(10)	<b>Yes</b>  §9:335(A)(1)  Art. 132	<b>Yes</b>  §9:345 (attorney)	<b>Yes/Yes</b>  §46:2136(A)(3); §46:2136(A)(2)	<b>Yes</b>  Any parent, adult household member, or district attorney may file on behalf of a minor  §46:2133(c)
<b>Maine</b> <a href="#">19-A ME. REV. STAT. §1651 ET SEQ. (2014)</a>  DV DEF. AT: 19-A §4002	<b>Yes</b>  §1653(3)(L)	<b>No</b>  ( <i>but see</i> §1653(6)(A))	<b>Yes</b>  §1653(3)(H)	<b>Yes</b>  §1651 §1653(1)(C) §1653(2)(A)	<b>Yes</b>  §1507 (GAL)	<b>Yes/Yes</b>  §4007(1)(G); §4007(1)(I)	<b>Yes</b>  A person responsible for the child or the Dep't of Human Services  19-A §4005(1)
<b>Maryland</b> <a href="#">MD. CODE., FAM.</a>	<b>No best interest factors</b>  <i>But see</i> §9-101.1(b)	<b>No, but see</b> §9-101.1(c) (court shall make custody arrangements)	<b>No best interest factors</b>	<b>No</b>	<b>Statute is silent</b>	<b>Yes/Yes</b>	<b>Yes</b>  A person related to the child by blood,

Prepared by the American Bar Association Commission on Domestic & Sexual Violence. <http://www.ambar.org/cdsv>

We are always grateful to receive corrections and updates at [abacdvt@americanbar.org](mailto:abacdvt@americanbar.org) The law is constantly changing! Please independently confirm the data you find here.

## Child Custody and Domestic Violence By State

7/2014

Child Custody Statute & Definition of DV	Best Interest Factors Include DV?	Rebuttable Presumption Against Custody to Batterer?	Best Interest Factors Include "Friendly Parent"?	Rebuttable Presumption of Joint Custody?	Representation for child?	Child Custody/ Support in CPO?	Can the court enter a CPO as to the child? Who can file?
<a href="#">LAW §9-101 ET SEQ. (2014)</a>  DV DEF. AT: §4-501 SEE ALSO: §9-101.1	(court shall consider evidence of DV)	that best protect the child and victim of abuse)  §9-101.2(a) (rebuttable presumption against visitation to murderer of parent)					marriage, or adoption, an adult who resides in the home, the State's Attorney, or the Dept. of Social Services.  § 4-501(o)(2)(ii)(2)
<b>Mass.</b> <a href="#">MASS. GEN. LAWS 208 §31A ET SEQ. (2014)</a>  DV DEF. AT: 208 §31A 209 §38 209A §1 209C §10(e) 265 §13K	<b>Yes</b>  208 §31A 209 §38 209C §10(e) (evidence of past or present abuse toward a parent or child is a factor contrary to the best interest of the child)	<b>Yes</b>  208 §31A 209 §38 209A §3 209C §10(e)  See also 208 §28 (rebuttable presumption against visitation to 1 <sup>st</sup> degree murderer of parent)	<b>No</b>	<b>No</b>  208 §31 (There shall be no presumption either in favor of or against shared legal or physical custody at the time of the trial on the merits, except as provided for in §31A)	<b>Yes</b>  208 §31A(h) 209 §38(h) 209A §3(h) 209C §10(e)(h)  (GAL or attorney)	Yes/ Yes  209A § 3(d); 209A §3(e)	<b>Unclear</b>  A person suffering from DV from an adult or minor family or household member may file  209A, § 1
<b>Michigan</b> <a href="#">MICH. COMP. LAWS §722.21 ET SEQ. (2014)</a>  DV DEF. AT: §400.1501(d)	<b>Yes</b>  §722.23(k)	<b>No</b>	<b>Yes</b>  §722.23(j)	<b>No</b>  §722.26a(2) (but if parents agree to joint custody, it shall be awarded unless it is not in the child's best interest)	<b>Yes</b>  §722.22(c) (attorney)  §722.24(2) (GAL)	<b>Possibly, see</b>  MCR 3.706(3)(a) ("a personal protection order takes precedence over any existing...custody order until the PPO has expired)	<b>Yes</b>  A "next friend" may file on behalf of a minor in a protection order action.  MCR 3.703(F)
<b>Minnesota</b> <a href="#">MINN. STAT. §518.17 ET SEQ. (2014)</a>	<b>Yes</b>  §518.17(1)(a)(12)	<b>Yes</b>  §518.17(2)	<b>Yes</b>  §518.17(1)(a)(13) (This factor does not apply if DV exists)	<b>Yes</b>  §518.17(2) (Upon request of either or both parties, unless	<b>Yes</b>  §518.165 (GAL)	<b>Yes/Yes</b>  §518(B).01(6)(a)(4); §518(B).01(6)(a)(5)	<b>Yes</b>  Parent, family member, or guardian may petition on

Prepared by the American Bar Association Commission on Domestic & Sexual Violence. <http://www.ambar.org/cdsv>

We are always grateful to receive corrections and updates at [abacdvt@americanbar.org](mailto:abacdvt@americanbar.org) The law is constantly changing! Please independently confirm the data you find here.



## Child Custody and Domestic Violence By State

7/2014

Child Custody Statute & Definition of DV	Best Interest Factors Include DV?	Rebuttable Presumption <i>Against</i> Custody to Batterer?	Best Interest Factors Include "Friendly Parent"?	Rebuttable Presumption of Joint Custody?	Representation for child?	Child Custody/ Support in CPO?	Can the court enter a CPO as to the child? Who can file?
DV DEF. AT: §518B.01				DV occurred between the parties.)			behalf or a minor; any reputable adult age 25 or older can petition on the minor's behalf if in the child's BI § 518B.01(4)(a)
<b>Mississippi</b> <a href="#">MISS. CODE §93-5-24 ET SEQ. (2014)</a>  DV DEF. AT: §93-5-24(9)(a)(i)(1) ("family violence")	<b>Yes</b>  §93-5-24(9)(a)(i)	<b>Yes</b>  §93-5-24 (9)(a)(i)	<b>No</b>	<b>Yes</b>  §93-5-24(4) (presumption exists when both parents have agreed to an award of joint custody)	<b>Statute is silent</b>	<b>Yes/Yes</b>  §93-21-15(2)(a)(iv); § 93-21-15(2)(a)(v)	<b>Yes</b>  Any parent, adult household member, or next friend of the abused may file on behalf of a minor  § 93-21-7(1)
<b>Missouri</b> <a href="#">MO. STAT. §452.375 ET SEQ. (2014)</a>  DV DEF. AT: §452.375(13) by reference to §455.010 & §455.501	<b>Yes</b>  §452.375(2)(6)	<b>Yes</b>  §455.050(5) (but if both parents are abusive, then no presumption)	<b>Yes</b>  §452.375(2)(4)	<b>No</b>	<b>Yes</b>  § 452.423 (GAL and/or attorney for the child)	<b>Yes/Yes</b>  §455.05(3)(1); §455.05(3)(3)	<b>Yes</b>  A parent or guardian of the victim, a guardian ad-litem or court-appointed special advocate appoint for the victim, the juvenile officer  § 455.503
<b>Montana</b> <a href="#">MONT. CODE §40-4-212 ET SEQ. (2013)</a>	<b>Yes</b>  §40-4-212(1)(f)	<b>No</b>	<b>No</b>	<b>No</b>	<b>Yes</b>  §40-4-205 (GAL)	<b>Yes/Yes</b>  §40-15-103(1)(6)	<b>Yes</b>  Parent, guardian ad litem or other representative on behalf of a minor.

Prepared by the American Bar Association Commission on Domestic & Sexual Violence. <http://www.ambar.org/cdsv>

We are always grateful to receive corrections and updates at [abacdvt@americanbar.org](mailto:abacdvt@americanbar.org) The law is constantly changing! Please independently confirm the data you find here.

## Child Custody and Domestic Violence By State

7/2014

Child Custody Statute & Definition of DV	Best Interest Factors Include DV?	Rebuttable Presumption <i>Against</i> Custody to Batterer?	Best Interest Factors Include "Friendly Parent"?	Rebuttable Presumption of Joint Custody?	Representation for child?	Child Custody/ Support in CPO?	Can the court enter a CPO as to the child? Who can file?
DV DEF. AT: §45-5-206(1)							§ 40-15-102(3)
<b>Nebraska</b> <a href="#">NEB. REV. STAT. §42-364 ET SEQ. (2013)</a>  DV DEF. AT: §42-903 (CPO code)	<b>Yes</b>  §43-2923(6)(d)-(e)	<b>No</b>  §42-364(2) (no presumption shall exist that either parent is more fit or suitable than the other)	<b>No</b>	<b>No</b>	<b>Yes</b>  §42-358(1) (The court may appoint an attorney to protect the interests of any minor children of the parties)	<b>Yes, up to 90 days/No</b>  §42-924(1)(f)	<b>Probably</b>  Any victim of DV can file a petition for a protective order  § 42-924(1)
<b>Nevada</b> <a href="#">NEV. REV. STAT. §125.480 ET SEQ. (2013)</a> DV DEF. AT: §33.018 (CPO code)	<b>Yes</b>  §125.480(4)(k)	<b>Yes</b>  §125C.230 §125.480(5) §125.480(6) (if both parties engaged in domestic violence the court should determine who was the primary aggressor)	<b>Yes</b>  §125.480(4)(c)	<b>Yes</b>  §125.480(3)(a) §125.490 (presumed to be in the best interest of a child when parents have agreed to an award of joint custody or so agree in open court)	<b>Statute is silent</b>	<b>Yes/Yes</b>  §33.030(1)(d); §33.030(2)(c)(3)	<b>Yes</b>  Parent or guardian on behalf of a child.  §33.018(1)
<b>New Hampshire</b> <a href="#">N.H. REV. STAT. §461-A:6 ET SEQ. (2014)</a>	<b>Yes</b>  §461-A:6(l)(j)	<b>No</b>	<b>Yes</b>  §461-A:6(l)(e)-(g)	<b>Yes</b>  §461-A:5 (overcome by presence of DV)	<b>Yes</b>  §461-A:16 (GAL)	<b>Yes/Yes</b>  §173-B:5(l)(b)(5); §173-B:5(l)(b)(7)	<b>Yes</b>  A minor on his/her own ("...need not be accompanied by a

Prepared by the American Bar Association Commission on Domestic & Sexual Violence. <http://www.ambar.org/cdsv>

We are always grateful to receive corrections and updates at [abacdvt@americanbar.org](mailto:abacdvt@americanbar.org) The law is constantly changing! Please independently confirm the data you find here.

## Child Custody and Domestic Violence By State

7/2014

Child Custody Statute & Definition of DV	Best Interest Factors Include DV?	Rebuttable Presumption <i>Against</i> Custody to Batterer?	Best Interest Factors Include "Friendly Parent"?	Rebuttable Presumption of Joint Custody?	Representation for child?	Child Custody/ Support in CPO?	Can the court enter a CPO as to the child? Who can file?
DV DEF. AT: §461-A:6(I)(j) by reference to §173-B:1 (CPO code)							parent or guardian to receive relief or services..." §173-B:3(II)
<b>New Jersey</b> <a href="#">N.J. STAT. §9:2-4 ET SEQ. (2014)</a>  DV DEF. AT: §2C:25-19(3)(d)	<b>Yes</b>  §9:2-4(c)	<b>No</b>	<b>Yes</b>  §9:2-4(c) (court shall consider parents' ability to cooperate and accept custody)	<b>No</b>  §9:2-4 (there is a policy to encourage parents to share child-rearing rights and responsibilities)	<b>Yes</b>  §9:2-4(c) (GAL and/or attorney)	<b>Yes/Yes</b>  §2C:25-29(a)(5); §2C:25-29(b)(4)	<b>Only if emancipated</b>  Teenager if the abuser is at least 18 years old.  §2C:25-19(d)
<b>New Mexico</b> <a href="#">N.M. STAT. §40-4-9.1 ET SEQ. (2014)</a>  DV DEF AT: §40-4-9.1(L)(3) See also: § 40-13-2(C)	<b>Yes</b>  §40-4-9.1(B)(9)	<b>No</b>  (but see §40-4-9.1(B)(9): "If a determination is made that domestic abuse has occurred, the court shall set forth findings that the custody or visitation ordered by the court adequately protects the child, the abused parent or other household member.")	<b>Yes</b>  §40-4-9.1(B)(5)	<b>Yes</b>  §40-4-9.1(A) (in an initial custody determination)	<b>Yes</b>  §40-4-8(A) (GAL)	<b>Yes, temporary/Yes</b>  §40-13-5(A)(2)	<b>Probably</b>  §40-13-2(D)  SEE ALSO §40-13-3(A) A victim of abuse may petition for an order of protection.
<b>New York</b> <a href="#">N.Y. DOM. REL. LAW §240 ET SEQ. (2014)</a>	<b>Yes</b>  §240(a)	<b>No</b>  (but see §240-1-c(a): no custody to murderer of a parent or sibling, unless murder was DV self-defense)	<b>No</b>	<b>No</b>	<b>Yes</b>  (GAL or CASA under some circumstances)	<b>Yes/Yes</b>  § 842(2)(k)	<b>Yes</b>  Any person in the relation to the respondent of spouse, or former spouse, parent, child,

Prepared by the American Bar Association Commission on Domestic & Sexual Violence. <http://www.ambar.org/cdsv>

We are always grateful to receive corrections and updates at [abacdvt@americanbar.org](mailto:abacdvt@americanbar.org) The law is constantly changing! Please independently confirm the data you find here.

## Child Custody and Domestic Violence By State

7/2014

Child Custody Statute & Definition of DV	Best Interest Factors Include DV?	Rebuttable Presumption <i>Against</i> Custody to Batterer?	Best Interest Factors Include "Friendly Parent"?	Rebuttable Presumption of Joint Custody?	Representation for child?	Child Custody/ Support in CPO?	Can the court enter a CPO as to the child? Who can file?
DV DEF AT: N.Y. Soc. Serv. § 459-A							or member of the same family or household; a duly authorized agency; a peace officer or a police officer; a person on the court's own motion  N.Y. FAM. CT. ACT § 822
<b>North Carolina</b> <a href="#">N.C. GEN. STAT. §50-13.2 ET SEQ. (2014)</a>  DV DEF AT: N.C. GEN. STAT. ANN. §50B-01	<b>Yes</b>  §50-13.2(a)	<b>No</b>  (but see §50-13.2(b): the court shall enter such orders that best protect the children and party who were the victims of domestic violence)	<b>No</b>	<b>No</b>	<b>Yes</b>  (GAL)  26 Jud. Dist. Domestic Violence Part IV(f)	<b>Yes, temporary/Yes</b>  §50B-3(a)(4); §50B-3(a)(6)	<b>Yes</b>  Any person can file on behalf of a minor child if they reside together or if they have the child in their custody.  §50B -2(a)
<b>North Dakota</b> <a href="#">N.D. CENT. CODE §14-09 ET SEQ. (2013)</a>  DV DEF AT: §14-07.1-01	<b>Yes</b>  §14-09-06.2(1)(j)	<b>Yes</b>  §14-09-06.2(1)(j)	<b>Yes</b>  §14-09-06.2(1)(e)	<b>No</b>	<b>Yes (GAL)</b>  §14-07.1-05.1	<b>Yes, temporary/Yes</b>  §14-07.1-02(4)(c); §14-07.1-02(4)(e)	<b>Unclear</b>  §14-07.1-01-02
<b>Ohio</b> <a href="#">OHIO REV. CODE §3109.04 ET SEQ. (2014)</a>  DV DEF AT:	<b>Yes</b>  §3109.04 (F)(1)(h) §3109.04 (F)(2)(c)	<b>No</b>  But see §3109.04(C)  ("Prior to trial, the court may cause an investigation to be made	<b>Yes</b>  §3109.04 (F)(1)(f) §3109.04(F)(2)(b)	<b>No</b>  §3109.04(D)(1)(a)(i) (subject to best interests)	<b>Yes</b>  §3109.04(B)(2)(a) (GAL)	<b>Yes, temporary/Yes</b>  §3113.31(E)(1)(d)	<b>Yes</b>  A parent or adult household member on behalf of any other family or household member.

Prepared by the American Bar Association Commission on Domestic & Sexual Violence. <http://www.ambar.org/cdsv>

We are always grateful to receive corrections and updates at [abacdvt@americanbar.org](mailto:abacdvt@americanbar.org) The law is constantly changing! Please independently confirm the data you find here.

## Child Custody and Domestic Violence By State

7/2014

Child Custody Statute & Definition of DV	Best Interest Factors Include DV?	Rebuttable Presumption <i>Against</i> Custody to Batterer?	Best Interest Factors Include "Friendly Parent"?	Rebuttable Presumption of Joint Custody?	Representation for child?	Child Custody/ Support in CPO?	Can the court enter a CPO as to the child? Who can file?
§2919.25 (criminal code)		as to the character, family relations, past conduct..."					§3113.31(C)
<b>Oklahoma</b> <a href="#">43 OKLA. STAT. §109 ET SEQ. (2014)</a>  DV DEF AT: §109 (I)(2)(A)  according to case law, DV should be defined in accordance with 22 §60.1 (criminal code)	<b>Yes</b>  43 §109(I)(4)-(5)	<b>Yes</b>  43 §109(I)(1) 43 §109.3 43 §112.2 43 §112.5(C)(4)	<b>No</b>	<b>Yes</b>  43 §110.1 (if requested by a parent, and unless history of DV)	<b>Yes</b>  10A OKLA. STAT. § 1-4-102(C)	<b>No/No</b>  See 22 §60.4(I)(1)	<b>Yes</b>  An adult or emancipated minor household member on behalf of any other family or household member who is a minor or incompetent. A minor aged 16 or 17 can file for a protection order themselves.  22 §60.2(A)
<b>Oregon</b> <a href="#">OR. REV. STAT. §107.137 ET SEQ. (2014)</a>  DV DEF AT: §107.705	<b>Yes</b>  §107.137(1)(d)	<b>Yes</b>  §107.137(2)	<b>Yes</b>  §107.137(1)(f) (but does not apply if DV exists)	<b>No</b>  §107.169(3) (court shall not order joint custody unless both parents agree)	<b>Yes</b>  §107.154(5) (GAL)	<b>Yes, temporary/No</b>  §107.710(5)	<b>Probably</b>  § 107.710(1)  ("Any person who has been the victim of abuse...")
<b>Pennsylvania</b> <a href="#">23 PA. CONS. STAT. §5303 ET SEQ. (2014)</a>  DV DEF AT:	<b>Yes</b>  23 §5328(a)(2)	<b>Not Explicitly</b>  <i>But see</i> 23 §5329 (court shall consider criminal conduct and whether it poses a threat of harm to the child)	<b>Yes</b>  23 §5328(a)(1) <i>But see</i> §5328(8) (except in cases of DV where parent acts to protect	<b>No</b>	<b>Yes</b>  23 §5334(A)	<b>Yes, temporary/Yes</b>  §6108(a)(4); §6108(a)(5)	<b>Yes</b>  An adult or emancipated minor who is a victim of abuse. A parent, adult household member or guardian

Prepared by the American Bar Association Commission on Domestic & Sexual Violence. <http://www.ambar.org/cdsv>

We are always grateful to receive corrections and updates at [abacdvt@americanbar.org](mailto:abacdvt@americanbar.org) The law is constantly changing! Please independently confirm the data you find here.

## Child Custody and Domestic Violence By State

7/2014

Child Custody Statute & Definition of DV	Best Interest Factors Include DV?	Rebuttable Presumption <i>Against</i> Custody to Batterer?	Best Interest Factors Include "Friendly Parent"?	Rebuttable Presumption of Joint Custody?	Representation for child?	Child Custody/ Support in CPO?	Can the court enter a CPO as to the child? Who can file?
23 §6102			child)				ad litem on behalf of a minor child or incompetent adult. 23 §6106(a)
<b>Rhode Island</b> <a href="#">R.I. GEN. LAWS §15-5-16 ET SEQ. (2014)</a>  DV DEF AT: §15-5-16(g)(4)	Yes § 15-5-16(g)	<b>Not Explicitly</b>  ( <i>but see</i> §15-5-16 (g): "visitation shall be arranged so as to best protect the child and the abused parent from further harm.")	No	No	Statute is silent	No/No	<b>Probably</b>  §8-8.1-3  A person suffering from domestic abuse.
<b>S. Carolina</b> <a href="#">S.C. CODE §20-3-160 ET SEQ. (2013)</a>  DV DEF AT: §63-15-40 §16-25-20 & 65	Yes §63-15-40	<b>Not Explicitly</b>  <i>But see</i> §63-15-50 (visitation rights for an aggressor in a situation of DV can only be awarded if the court adequately provides for the safety of the child and victim)	No	No	<b>Sometimes</b>  §63-3-810 (setting out limited circumstances for a GAL in private actions)	<b>Yes, temporary/Yes</b>  §20-4-60(C)(1); §20-4-60(C)(2)	<b>Yes</b>  Any household member in need of protection or household member on behalf of a minor child.  §20-4-40(a)
<b>South Dakota</b> <a href="#">S.D. CODIFIED LAWS §25-4-45 ET SEQ. (2014)</a>	No	<b>Yes</b>  §25-4-45.5	No	No	<b>Yes</b>  §25-4-45.4 (attorney)	<b>Yes, temporary/Yes</b>  §25-10-5(3); §25-10-5(4)	<b>Yes</b>  Any victim of abuse against a spouse, romantic partner, parent, child, or sibling

Prepared by the American Bar Association Commission on Domestic & Sexual Violence. <http://www.ambar.org/cdsv>

We are always grateful to receive corrections and updates at [abacdvt@americanbar.org](mailto:abacdvt@americanbar.org) The law is constantly changing! Please independently confirm the data you find here.

## Child Custody and Domestic Violence By State

7/2014

Child Custody Statute & Definition of DV	Best Interest Factors Include DV?	Rebuttable Presumption <i>Against</i> Custody to Batterer?	Best Interest Factors Include "Friendly Parent"?	Rebuttable Presumption of Joint Custody?	Representation for child?	Child Custody/ Support in CPO?	Can the court enter a CPO as to the child? Who can file?
DV DEF AT: §25-10-1							§25-10-3(1)
<b>Tennessee</b> <a href="#">TENN. CODE §36-6-106 ET SEQ. (2014)</a>  DV DEF AT: §36-3-601	<b>Yes</b>  §36-6-106(a)(8)	<b>No</b>	<b>Yes</b>  §36-6-106(a)(10)	<b>No</b>  § 36-6-101(a)(2)(A)(i) (unless parents agree to joint custody)	<b>Statute is silent</b>	<b>Yes, temporary/Yes</b>  §36-3-606(a)(6); §36-3-606(a)(7)	<b>Yes</b>  An unemancipated minor may file with the signature of a parent, guardian, or caseworker.  §36-3-602
<b>Texas</b> <a href="#">TEX. FAM. CODE §153.001 ET SEQ. (2013)</a>  DV DEF AT: §101.0125 by reference to §71.004 (CPO)	<b>Yes</b>  §153.004(a)	<b>Yes</b>  §153.004(d)	<b>Yes (limited capacity)</b>  §153.134(a)(3) (considering "friendly parent" in determining whether to grant joint custody)	<b>Yes</b>  §153.131(b) (but the presumption is automatically overcome by a finding of DV)	<b>Statute is silent.</b>	<b>Yes/Yes, for a period up to two years</b>  §85.021(3); §85.021(4)	<b>Yes</b>  A protection order may be filed by a member of a dating relationship, regardless of whether that member is an adult or a child.  §82.002(b)
<b>Utah</b> <a href="#">UTAH CODE §30-3-10 ET SEQ. (2014)</a>  DV DEF AT: § 78B-7-102 by reference to	<b>Yes</b>  §30-3-10.2(2)(i)	<b>No</b>	<b>Yes</b>  §30-3-10(1)(a)(ii) §30-3-10 (2) §30-3-10.2(2)(c)	<b>No</b>  §30-3-10(5)	<b>Yes</b>  §30-3-11.2 (the court may appoint counsel to represent the child)	<b>Yes, temporary/Yes</b>  §78B-7-204(2)(a); §78B-7-204(2)(c)	<b>Yes</b>  Any interested person may file a protective order on behalf of the child.  §78B-7-202(1)

Prepared by the American Bar Association Commission on Domestic & Sexual Violence. <http://www.ambar.org/cdsv>

We are always grateful to receive corrections and updates at [abacdvt@americanbar.org](mailto:abacdvt@americanbar.org) The law is constantly changing! Please independently confirm the data you find here.

## Child Custody and Domestic Violence By State

7/2014

Child Custody Statute & Definition of DV	Best Interest Factors Include DV?	Rebuttable Presumption <i>Against</i> Custody to Batterer?	Best Interest Factors Include "Friendly Parent"?	Rebuttable Presumption of Joint Custody?	Representation for child?	Child Custody/ Support in CPO?	Can the court enter a CPO as to the child? Who can file?
77-36-01 (CPO)							
<b>Vermont</b> <a href="#">15 VT. STAT. §665 ET SEQ. (2014)</a>  DV DEF AT: 15 §665 by reference to §1101(1) (CPO)	<b>Yes</b>  15 §665(b)(9)	<b>No</b>	<b>Yes</b>  15 §665(b)(5) (except where there would be real harm to the child or parent)	<b>No</b>  15 §665(a)	<b>Yes</b>  15 §669 (GAL)	<b>Yes/Yes</b>  15 §1103(c)(2)(C)	<b>Yes</b>  Any family or household member on behalf of his/her children.  15 §1103(a)
<b>Virginia</b> <a href="#">VA. CODE §20-124.3 ET SEQ. (2014)</a>  DV DEF AT: §20-124.3 (9) by reference to §16.1-228 (CPO)	<b>Yes</b>  §20-124.3(9)	<b>No</b>	<b>Yes</b>  §20-124.3(6)-(9) (except where there is a history of DV)	<b>No</b>	Yes  Attorney/GAL  §16.1-266	<b>No</b>  Unless there is abuse/neglect of the child (see § 16.1-278.2)	<b>Yes</b>  Parent/cohabitant residing in the same house with the abuser.  §16.1-228
<b>Washington</b> <a href="#">WASH. REV. CODE §26.09.002 ET SEQ. (2014)</a>  DV DEF AT: §26.09.191 by reference to §26.50.010 (CPO)	<b>No</b>  But see a list of related factors in §26.09.191	<b>No</b>  But see §26.09.191(2)(a),(b), (m),(n) limiting the custodial rights of batterers	<b>No</b>	<b>No</b>	<b>Yes</b>  <b>§26.09.110 (attorney)</b>	<b>Yes, temporary/No</b>  §26.50.060(1)(l)	<b>Yes</b>  Victim of domestic violence on his/her behalf or on behalf of a minor family or household member; victim under 18 years but over 16.

Prepared by the American Bar Association Commission on Domestic & Sexual Violence. <http://www.ambar.org/cdsv>

We are always grateful to receive corrections and updates at [abacdvt@americanbar.org](mailto:abacdvt@americanbar.org) The law is constantly changing! Please independently confirm the data you find here.



## Child Custody and Domestic Violence By State

7/2014

Child Custody Statute & Definition of DV	Best Interest Factors Include DV?	Rebuttable Presumption <i>Against</i> Custody to Batterer?	Best Interest Factors Include "Friendly Parent"?	Rebuttable Presumption of Joint Custody?	Representation for child?	Child Custody/ Support in CPO?	Can the court enter a CPO as to the child? Who can file?
							§26.50.020
<b>West Virginia</b> <a href="#">W.V. CODE §48-9-201 ET SEQ. (2014)</a> DV DEF AT: §48-27-202	<b>No</b> <i>But see</i> §48-9(a)(3) (evidence of DV as a limiting factor on a joint parent plan)	<b>No</b> <i>But see</i> §48-9-201(b) (If evidence of DV, a hearing is mandatory. If the court makes a finding of DV, appropriate protective measures shall be ordered.) §48-9-209 (limiting the parental rights of the batterer if the court makes a finding of DV)	<b>No</b> <i>But see</i> §48-9-209(a)(4) (interfering persistently with other parent's interaction with child as limiting factor on joint parent plan)	<b>Yes</b> §48-9-207(b) (but the presumption is overcome by a showing of domestic abuse)	<b>Yes</b> §48-9-302(a)	<b>Yes/Yes</b> §48-27-503(3); §48-27-503(4)	<b>Yes</b> An adult family or household member on behalf of a minor child; a person who reports or witnesses the domestic violence and has been abused, threatened, harassed or intimidated as a result. §48-27-305(2)-(3)
<b>Wisconsin</b> <a href="#">WIS. STAT. §767.41 ET SEQ. (2014)</a> DV DEF AT: §767.41(2)(b)(2)(c) by reference to §813.12 (am) (CPO Code)	<b>Yes</b> §767.41(5)(12)-(13)	<b>Yes</b> §767.41(2)(d) §767.41(5)(12)	<b>Yes</b> §767.41(5)(10) §767.41(5)(11)	<b>Yes</b> §767.41(2)(am) (unless there is a finding of DV)	<b>Yes</b> §767.407 (GAL)	<b>No/No</b>	<b>Yes</b> Child victim or a parent, stepparent or legal guardian of the child. § 813.122(2)
<b>Wyoming</b> <a href="#">WYO. STAT. § 20-2-201 ET SEQ. (2014)</a> DV DEF AT: § 35-21-102	<b>Yes</b> §20-2-201(c)	<b>No</b>	<b>Yes</b> §20-2-201(a)(vii)	<b>No</b> <i>See</i> §20-2-201(d)	<b>Statute is silent</b>	<b>Yes/Yes</b> §35-21-105(b)(i); §35-21-105(b)(ii)	<b>Possibly</b> A victim of domestic violence. §35-21-103

Prepared by the American Bar Association Commission on Domestic & Sexual Violence. <http://www.ambar.org/cdsv>

We are always grateful to receive corrections and updates at [abacdvt@americanbar.org](mailto:abacdvt@americanbar.org) The law is constantly changing! Please independently confirm the data you find here.