

Overview of CPO Protections for LGBT Victims of Domestic Violence

Domestic violence occurs in same-sex relationships just as in heterosexual relationships. However, LGBT victims of domestic violence are often denied the civil legal remedies that are available to heterosexual victims.

Three states, Louisiana¹, Montana and South Carolina, have protective order statutes that explicitly deny LGBT victims the ability to seek civil orders of protection by requiring the requisite relationship to be with an individual of the opposite sex.² Only one state, Hawaii, specifically extends protection to LGBT victims by including “current or former same sex partners” within its statutory language. The remaining states have protective order statutes that utilize gender neutral language, leaving the protection of LGBT victims of domestic violence up to interpretation by the courts.

Currently, only four states (Florida, Kentucky, Pennsylvania and Illinois) have case law ensuring the availability of civil orders of protection to LGBT victims of domestic violence. Two states (Ohio and New Jersey) and the District of Columbia have case law that suggests civil orders of protection are available to LGBT victims, although such availability was not the legal question before the courts. One state, Virginia, does not have case law interpreting its statute, but an Attorney General’s opinion suggests the statute does not apply to same-sex couples.

¹ Nevertheless, LGBT victims of domestic violence are entitled to the same relief under the Prevention from Dating Violence Act. See La. Rev. Stat. Ann. §46.2151 (2006).

² New York, which previously fell into this category, recently amended its protective order to provide more inclusive, gender-neutral language. For more information, see S.8665, 2008 Leg. Sess. (N.Y. 2008) available at <http://assembly.state.ny.us/leg/?bn=S08665>.