

Domestic Violence Screening & Assessment for Family Law Cases Court Appointed Investigator

Per RCW 26.09.003, the court must consider the presence of domestic violence in order to improve outcomes for children. Any court-appointed investigator (parenting evaluator, GAL, CASA, Family Court Services) should conduct a thorough screening for domestic violence and if identified, an assessment of its impact on the children and each party.¹

It is imperative that the investigator's report include the following information:

- The DV-specific assessment tool or protocol that was utilized.
- If no specific tool or protocol, an explanation of how determinations were made regarding the existence or nonexistence of DV.
- The definition of domestic violence that guided the screening and assessment process.
- The sources of information relied upon to support the conclusion.²
- If DV identified, which party has engaged in abusive behaviors and against who.
- Specific abuse and control tactics that were identified.
- The impact of the DV on each child, the parties, and on parenting.
- Any current risk factors (including lethality indicators).
- Any identified co-occurring issues.
- Any relevant cultural considerations.

Of note:

- There are no validated psychological profiles of domestic violent victims or perpetrators, therefore psychological testing should not be relied upon for the purpose of DV screening and assessment.
- DV survivors' protective behaviors are often misinterpreted by evaluators and decision makers who have missed or do not understand DV and its impacts. Parental alienation and/or gatekeeping labels are often misapplied by professionals and frequently promoted by abusive partners.
- The reader should also consider whether or not the investigator's conclusion matches the information included in the report.

¹ The investigator should conduct the same DV screening and assessment protocol with each party. If only one party is evaluated, any resultant reports or recommendations should provide a written explanation of the reasons for, and limitations of, a one-party evaluation. Ideally, the DV screening and assessment shall be administered prior to any additional evaluations.

² Collateral contacts, court records, databases, police reports, protective orders, CPS records, supervised visitation records, school counselor reports, text messages, emails, interviews, etc.

Definitions of Domestic Violence

Washington law defines domestic violence in RCW 26.50.010(1) as:

- (a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members;
- (b) sexual assault of one family or household member by another; or
- (c) stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member.

Important Points to Note regarding RCW 26.50.010:

- Acts of physical assault do not need to have occurred recently in order to cause current fear of imminent harm. In fact, research has consistently shown that the separation or escape from an abusive partner can escalate the abuse and increases risk of serious injury or death.
- Stalking is often nuanced and frequently overlooked by family court professionals despite research that demonstrates stalking is linked to increased post-separation battering and is a lethality indicator. Washington law defines stalking in RCW 9A.46.110 as when a person
 - intentionally and repeatedly harasses or repeatedly follows another person;
 - and the person being harassed or followed is placed in fear that the stalker intends to injure the person, another person, or property of the person or of another person;
 - and the stalker knows or should know he or she is causing fear whether or not the stalker intends to do so.

The Washington Courts Domestic Violence Manual for Judges (2016) defines domestic violence as:

A pattern of assaultive and coercive behaviors including physical, sexual, and psychological attacks, as well as reproductive and economic coercion, that adults or adolescents use against their intimate partner.

Behavioral tactics outlined in the *Manual* include acts of violence; intimidation; isolation; humiliation; reproductive coercion; use of indulgences; economic coercion; and use of children to control the victim.

Both definitions should be considered when providing for the immediate and long-term emotional, psychological, and physical safety and wellbeing of children.

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