

Violence Against Women



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Violence Against Women

Domestic Violence Protection Orders (DVPOs)

Civil domestic violence protection orders. When properly used and enforced, protection orders can help prevent specific behaviors such as harassment or threats which could lead to future violence. They also can help provide a safe location for the victim, if necessary, by barring or evicting an offender from the household, and by establishing safe conditions for any future interactions, for example, supervised child visitation, exchanges or other court proceedings.

Definition of "domestic abuse" for a Domestic Violence Protection Order (DVPO). Though the patterns of behavior and dynamics of domestic abuse are broad, for purposes of obtaining a civil domestic violence protection order in Wyoming, domestic abuse means the occurrence of one (1) or more of the following acts by a household member but *does not include acts of self defense*:

- Physically abusing, threatening to physically abuse, attempting to cause or causing physical harm or acts which unreasonably restrain the personal liberty of any household member
- Placing a household member in reasonable fear of imminent physical harm
- Causing a household member to engage involuntarily in sexual activity by force, threat of force or duress

W.S. 5-21-102(a)(iii).

Eligible petitioners. A victim of domestic abuse may petition the court under Wyoming's Domestic Violence Protection Act by filing a petition with the circuit court for an order of protection. The victim is then known as the "Petitioner." **W.S. 35-21-103(a).**

Potential respondents (person against whom a protection order is sought). A petition may be filed against

any of the following categories of persons, defined as "*household members*": persons married to each other; persons living with each other as if married; persons formerly married to each other; persons formerly living with each other as if married; parents and their adult children; other adults sharing common living quarters; persons who are the parents of a child but who are not living with each other; and persons who are in, or have been in, a dating relationship. **W.S. 35-21-102(a)(iv).**

Definition of Adult. Under Wyoming's Domestic Violence Protection Act an "adult" means a person who is sixteen (16) years of age or older, or legally married. This definition of adult applies where adult is referred to in the "household member" definition above. **W.S. 35-21-102(a)(i).**

• Initial Procedures

Jurisdiction and venue. There is no residency requirement for a petitioner to be eligible for a DVPO and no requirement the activities which put the victim in fear occur in the State of Wyoming. *Venue is proper in any circuit court where an alleged victim of domestic abuse resides or is found.* **W.S. 35-21-105(a)(ii).**

Standard Wyoming forms. The Wyoming Supreme Court formally adopted certain forms and instructions for statewide use in all DVPO cases. **W.S. 35-21-103(e).** The forms are available at no charge from the circuit court clerk's office in each county.

Petition. The petition shall set forth an allegation that the respondent engaged in an act of domestic abuse against a household member. The petitioner must swear that the allegations are true and sign the form in front of a notary or a clerk of circuit court. A person must include specific facts showing the alleged domestic abuse. **W.S. 35-21-103(b).** Under the Wyoming Domestic Violence Protection Act, the petitioner and the respondent must be "household members." (See definition above)

Petitioner's address to be kept confidential. If the petitioner requests, the court shall order the ad-



dress of the petitioner and any children of the petitioner and respondent be kept confidential. **W.S. 35-21-105(e).**

No filing or service fees. Wyoming law prohibits charging a petitioner a fee for filing a petition for a protection order. **W.S. 35-21-103(d).**

Victim advocates. In Wyoming, there is a domestic violence and sexual assault advocacy agency in every county and on the Wind River Indian Reservation. The role of the victim advocate is not to give legal advice or representation, but to provide support and assistance to victims, including alternatives to seeking protection orders when appropriate. It is common for trained victim advocates to accompany victims to court in order to provide support, though it is not a requirement.

Unrepresented parties. Even with a simplified petitioning procedure and energetic assistance from advocates to victims, those victims who are not represented by an attorney are less likely to get orders that contain all appropriate provisions regarding exclusion from the residence, temporary custody of children, child support, and protective limitations on visitation rights. An attorney for the petitioner is especially important if the respondent appears with an attorney. There is no right to a court-appointed attorney for respondents, as domestic violence orders of protection are civil in nature, not criminal. There are legal services that provide assistance to qualifying petitioners (persons seeking the protection) in protection order hearings. *While Wyoming law allows the court to appoint an attorney to assist and advise the petitioner, most courts do not have procedures or resources in place to do so.* **W.S. 35-21-103(e).**

- **Ex Parte Temporary Restraining Orders**

No hearing is required for an *ex parte* order. An *ex parte* order is one that is issued before the respondent has an opportunity to tell the judge his or her version of the facts. If it appears from the specific facts shown by the affidavit or by the peti-

tion that there exists a danger of further domestic abuse, the court shall immediately grant an *ex parte* temporary order of protection to the petitioner. **W.S. 35-21-104(a)(i).**

When temporary order not issued. When the judge determines after reviewing the petition that there is not sufficient evidence to grant an *ex parte* temporary order of protection, the court shall give notice to the parties that a hearing will be held on the petition for order of protection within seventy-two (72) hours after the filing of the petition or as soon thereafter as the petition may be heard by the court. **W.S. 35-21-104(a)(iv).**

Custody in *ex parte* orders. It is important to ask the court to consider custody of children in *ex parte* orders since the time of separation is often critical for victims.

- **Full Hearing on Domestic Violence Protection Order**

Scheduling a protection order hearing. A hearing to decide whether to grant an order of protection is scheduled to take place within seventy-two (72) hours after the granting of the temporary order of protection or as soon thereafter as the petition may be heard by the court. **W.S. 35-21-104(a)(iii).**

Continuance of full hearing. The court may continue the full hearing if the respondent has not yet been served, or in order for either party to obtain counsel or for other good cause.

Request for counsel. To promote fairness between the parties and give both the opportunity to have their legal interests represented, most courts will approve a continuance request by an un-represented party when the other party appears at a hearing with a lawyer.

Default for respondent failing to appear. If the respondent fails to appear at the full hearing after proper service, the judge will likely issue the order as requested by the petitioner so long as the petitioner appears at the hearing. If the petitioner does



not appear at the hearing, the court will most likely dismiss the case.

Service of DVPO. An order of protection must be filed with the clerk of circuit court who will then forward a copy to the sheriff for service and entry in a statewide registry. **W.S. 35-21-106(a).**

- **Authority for grounds for civil domestic violence protection orders**

Criminal acts. Evidence of domestic abuse can include any action against a household member which would be a crime if committed against a stranger. Such evidence may be grounds for issuance of a civil protective order whether or not an arrest is made or the case is prosecuted.

Commonly observed criminal acts. Commonly observed criminal acts in domestic violence cases include: assault, battery, homicide, rape, kidnapping, or restriction of the victim's movement, child abuse, destruction of property, threats, stalking, reckless endangerment, and disorderly conduct. Also, sexual assaults and marital rape are explicitly included in the protective order statute. **W.S. 35-21-102(a)(iii).**

Interference/unreasonable restraint of personal liberty. Domestic violence includes kidnapping, forceful detention, moving a person a substantial distance from the vicinity where that person was found, compelling a person by force, threat of force or intimidation to engage in conduct from which the person has a right or privilege to abstain or to abstain from conduct in which the person has a right to engage. **W.S. 35-21-102(a)(iii)(A).**

Threats. Threats to cause physical abuse or placing a household member in reasonable fear of imminent physical harm are sufficient to support the issuance of a protective order. **W.S. 35-21-102(a)(iii)(A), (B) and (C).**

Damage to property. Damage to property is not specifically provided for in Wyoming's Domestic Violence Protection Act.

- **Insufficient reasons to deny issuance of protection order.** A judge should not deny a petitioner relief because a separate criminal or civil order has been entered against the respondent. **W.S. 35-21-103(g)(i).** In the criminal case, deals can be made or charges dropped even though the petitioner still requires protection from the respondent. The fact that the same petitioner has received DVPOs in the past or has asked that one be dismissed is also not sufficient reason for denial of an order of protection. **W.S. 35-21-103(g)(ii).** A DVPO should not be denied based on an allegation that the petitioner has committed acts of domestic abuse. *The Domestic Violence Protection Acts allows for separate DVPOs when there is evidence that both parties have committed acts of domestic abuse and when both follow the proper procedures.* **W.S. 35-21-105(h) et seq.**

- **Order of Protection.** Upon finding that an act of domestic abuse has occurred, the court shall enter an order of protection ordering the respondent household member to refrain from abusing the petitioner or any other household member. **W.S. 35-21-105(a).**

No specific statute of limitations. The court shall not deny a petitioner relief requested solely because of a lapse of time between an act of domestic abuse and the filing of the petition for an order of protection. **W.S. 35-21-103 (f).**

Reasons for lapse in time. There are many reasons petitioners may delay filing, including not being aware of the availability of protection orders, needing additional safety planning time or if they are too frightened to file closer in proximity to the abuse. A perpetrator of domestic violence may pose a risk of violence long after the last act or episode of violence.

Purpose of order is to protect victims of domestic abuse. An "Order of Protection" under Wyoming's Domestic Violence Protection Act means a court order granted for the protection of victims of domestic abuse. **W.S. 35-21-102(a)(v).**



- **Relief available through a Protective Order**

Extensive court power. As part of a valid protection order, the court may order other injunctive relief as the court deems necessary for the protection of the petitioner. **W.S. 35-21-105(a)(vi).**

Available relief. A DVPO, including *ex parte* orders, should address the following relief as appropriate. Each of these options is itemized in the standard forms.

- **No Abuse Clause.** Direct the respondent to refrain from abusing the petitioner or any other household member. **W.S. 35-21-105(a).**
- **No Contact Clause.** Orders the respondent not to initiate contact with petitioner anywhere either directly or indirectly, including, but not limited to, communication verbally in person, communication by telephone or other electronic means, written communication in any form, communication through third persons, and non-verbal communication and gestures. A petitioner may want to consider asking the court to include that there be no telephone calls to the petitioner's home, work or other location.
- **Invitation by petitioner does not void order.** The order controls/proscribes the respondent's behavior, not the petitioner's. **W.S. 35-21-105(g).**
- **Order to vacate.** Order the respondent to vacate or remain away from the residence. Additional relief a petitioner may want to consider asking for includes ordering respondent to: (1) continue to pay rent or mortgage payments; (2) surrender keys; (3) not damage petitioner's belongings; and (4) not shut off utilities or mail delivery to the petitioner.
- **Grant exclusive possession of the residence to the petitioner** or order the respondent to provide temporary suitable alternative housing for petitioner and any children to whom the respondent owes a legal obligation of support. **W.S.**

35-21-105(a)(i).

- **Temporary possession of property.** A protection order may not in any manner affect title to any real property but the court can determine parties' rights to temporary possession of property. **W.S. 35-21-105(d).**
- **Personal property.** Restrain the respondent from transferring, concealing, encumbering or otherwise disposing of petitioner's property or the joint property of the parties. **W.S. 35-21-105(a)(v).**
- **Attorney's fees.** The court may order the respondent to pay petitioner's reasonable attorneys fees in bringing an action for a DVPO. **W.S. 35-21-103(h).**
- **Child custody in protection orders.** Temporary custodial rights and responsibilities may be allocated in a protection order. When the court finds it to be in the best interests of the children, the court shall award temporary custody of any children involved to the petitioner. **W.S. 35-21-105(b)(i).**

Visitation in protection orders. Nowhere is the potential for renewed violence greater than during visitation. To reduce the potential for renewed violence, a victim should consider asking for the following:

- An order that eliminate the need for any contact between the parties
- Specific and detailed orders regarding visitation. Ordering "reasonable rights of visitation" or an order that visitation "will be arranged later" may place the petitioner in constant contact with the respondent and subject the petitioner to the respondent's control and harassment
- Order that visitation be supervised
- Order that communication regarding the children and/or exchanges for visitation are conducted through a third party

¹For further information about firearms prohibitions or section 922(g)(8), contact your local Field Division of the Bureau of Alcohol, Tobacco and Firearms by calling (800) 800-3855.

²Wyoming Domestic Violence Order of Protection forms updated in 2006.



- Order the respondent to attend and complete to the court's satisfaction a program of intervention or other designated counseling as a condition of visitation
- Where the respondent has a history of alcohol or other drug abuse, order that a treatment program for both alcohol and/or drugs and violence be completed prior to any visitation
- Whether treatment is ordered and completed, order that the respondent not consume alcohol or other drugs before or during the visit **W.S. 35-21-0105(b)(i)(D).**
- Require the respondent to post a bond to secure the return and safety of any children **W.S. 35-21-0105(b)(i)(G).**
- **Support for child and petitioner.** The court may order the respondent to provide child support and spousal support. **W.S. 35-21-105(b)(ii).**
- **Counseling.** Order respondent to attend and complete to the court's satisfaction a program of intervention or other designated counseling as a condition of visitation. **W.S. 35-21-105(b)(i)(C).** The court may *refer* an adult petitioner to attend counseling relating to the petitioner's status or behavior as a victim but shall not order or make as a condition of receiving protection that an adult petitioner attend such counseling. **W.S. 35-21-105(f).**
- **Abstention of alcohol and drugs.** Perpetrators with substance abuse problems should be ordered to attend separate alcohol and/or other drug treatment and testing prior to batterer's treatment.
- **Firearms and other weapons. Protection Orders and Federal Firearm Regulations:**¹ Under 18 USC §922(g)(8), persons who are subject to orders restraining them from abusing an "intimate partner" may not purchase or possess firearms or ammunition. The court may order the surrender of the perpetrator's firearms and other weapons, order weapons removed and prohibit weapons possession by the respondent.²
- **Official use exemption for protection orders:** A limited exception to sections 922(g)(8) and 922(d)(8) exists for law enforcement officers, armed forces personnel, and other local, state, and federal employees who are required to use weapons as part of their official duties. Under 18 U.S.C. section 925(a)(1), sometimes referred to as the "official-use exemption," the prohibitions in sections 922(g)(8) and 922(d)(8) do not apply to firearms that are received or possessed by such individuals for use in performing official duties on behalf of a federal, state, or local agency. Personal weapons, however, are not covered by the exemption.
- **Other relief.** The court may grant other relief as equitable and fair. For example, it may award the temporary use of a motor vehicle by the petitioner and the apportionment of personal property. **W.S. 35-21-105(f).**
- **Notices to Respondent**

Federal firearm regulations. The firearm prohibition does not require a specific finding of domestic violence only that the:

 - Order includes a finding that respondent represents a credible threat to the physical safety of petitioner or child; *or*
 - Order explicitly prohibits the use or threatened use of physical force that would reasonably be expected to cause bodily injury. **18 U.S.C. 922(g)(8) (1994).**

Firearm provisions are non-discretionary. It is not an option that the victim may request. The federal prohibitions are absolute.

Firearms used for hunting are included within the federal prohibitions. A defendant may not seek temporary access of hunting rifles, for example, during hunting season, whether it is for food or sport.

³W.S. §35-21-109.

⁴W.S. §35-21-106(b) (LexisNexis 2003).



Misdemeanor domestic violence. Furthermore, respondents should be informed that if they are convicted of a qualifying domestic violence misdemeanor, they are prevented from owning, possessing, or using a firearm (except in very limited circumstances where that right may be restored). **18 U.S.C. 922(g)(9) (1996).**

There is no official use exemption for persons convicted of qualifying domestic violence misdemeanors.

Restoration of firearm rights. Wyoming has a law allowing persons pleading guilty or nolo contendere or who have been convicted of a misdemeanor to petition a court for an expungement of the records of conviction for the purposes of restoring any firearm rights lost, subject to certain limitations, including (1) At least one (1) year has passed since the expiration of the terms of sentence imposed by the court, including any periods of probation or the completion of any program ordered by the court; (2) Other than convictions arising out of the same occurrence or related course of events, the petitioner has not previously pleaded guilty or nolo contendere to or been convicted of a misdemeanor for which firearm rights have been lost; (3) The misdemeanor or misdemeanors for which the person is seeking expungement shall not have involved the use or attempted use of a firearm. **W.S. 7-13-1501.**

Certified copies of order. Victims should always obtain a certified copy of the protection order and to keep a copy in her possession at all times. Identifying information, including the court's name, address and phone should be on the order in case someone has questions and needs to contact the court. This information is very useful for law enforcement when attempting to enforce the order.³

³W.S. §35-21-106(b) (LexisNexis 2003).

⁶SEAN THUESON, CIVIL DOMESTIC VIOLENCE PROTECTION ORDERS IN WYOMING: DO THEY PROTECT VICTIMS OF DOMESTIC VIOLENCE?, 4 Wyo. L. Rev. 1, p. 287 (2004).

Duration of Order of Protection. The duration of any order of protection should be based solely on consideration of petitioner's safety. Effective July 1, 2006, Wyoming's statute allows for the initial order to be "effective for a fixed period of time not to exceed one (1) year."⁴ Either party may move to modify, terminate or extend the order.

Extension authority. Any protection order issued may be renewed in the same manner as the original order or agreement was issued or approved. A DVPO may be renewed for up to one (1) year.⁵ The court only requires "good cause" which is not defined in the statute or case law.⁶

No Modification by Conduct. Reconciliation is common after the legal system intervention has abated the violence. However, only the court issuing the DVPO may modify or dismiss it. Parties cannot do so by their out-of-court agreement or conduct. **W.S. 35-21-105(g).**

Police are entitled to enforce violations of DVPOs by arrest of the respondent, even if the parties have apparently reconciled by mutual agreement. All mandatory protection order forms in Wyoming provide a notice required by statute that a DVPO cannot be waived or nullified by consent or invitation.

District court orders have priority. "Any order entered in a district court in this state in a proceeding where the petitioner and respondent are parties shall supersede any inconsistent language in any other order entered under this act or in any other court proceeding in this state." **W.S. 35-21-108(a).** The Wyoming domestic relations statutes require parties to inform the court whether either party has participated in any capacity in any other litigation concerning the custody of the same child in this or any other state; whether either party has information of any custody proceeding concerning the child pending in a court of this or any other state; and



whether either of them knows of any person not a party to the proceedings who has physical custody of the child or claims to have custody or visitation rights with respect to the child. **W.S. 20-5-110.** This duty continues as the information becomes available. It is important that the parties notify the district court if an order of protection or other court order regarding the parties has been issued or is pending.

Criminal or contempt enforcement. Any person who willfully violates a protection order, including a temporary protection order, or valid foreign protection “is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$750.00), or both.” **W.S. 6-4-404(a).**

A criminal prosecution may be commenced in any county in which the respondent commits an act in violation of the order of protection. **W.S. 35-21-106(c).**

A perpetrator may be arrested for violations when probable cause exists to believe a violation of a protective order has occurred. **W.S. § 7-20-102(b)(i).**

Warrantless arrests. Law enforcement officers may arrest any offender they witness violating a protection order, and may arrest the offender based on probable cause without having seen the violation. **W.S. 7-20-102.** Warrantless arrests may also be made for simple assault, battery, aggravated assault and battery, and reckless endangering against a household member. **W.S. 7-20-102.**

- **Separate orders allowed.** Separate orders of protection are allowed provided each party has filed a separate written petition for an order of protection; and the court makes specific findings on the record that both parties have committed acts of domestic

abuse and that each party is entitled to a separate order of protection. **W.S. 35-21-105(h).**

- **Filing and Registration of Foreign Order of Protection.** **W.S. 35-21-111.**

Process. The Petitioner may file a certified copy of foreign order with the clerk of district court where enforcement may be necessary; there is no filing fee or cost; and the district court clerk forwards the foreign order to the local sheriff’s office and chief of police for entry in the state-wide registry.

Registration of protection order not required. **18 U.S.C. 2265 (d)(2) (2000).** Registration of the foreign protection order is not required or even implied by the Violence Against Women Act.⁷ While registration, when safe, ensures awareness by police and courts, registration may not be practicable, especially for victims who need protection immediately across state lines. If notice was required to file a foreign protection order, it would defeat the purpose of fleeing to a “refuge” state.

Tipping off the abuser. The U.S. Constitution requires due process for the original protection order from the issuing state and does not require another notice and opportunity to be heard when registered in another jurisdiction. Temporary *ex-parte* orders do not require notice; however, the opportunity to be heard must be given as soon as possible after the order was issued, consistent with due process. **W.S. 35-21-109(a)(iii).** Final orders do require actual notice, however.

Stalking Laws in Wyoming

- **Definition: W.S. 7-3-506 et seq.** There are numerous elements to the crime of stalking and stalking requires that specific intent accompany the stalking

⁷18 U.S.C. 2265(d)(1) (2000), “Notification: A State or Indian tribe according full faith and credit to an order by a court of another State or Indian tribe shall not notify or require notification of the party against whom a protection order has been issued that the protection order has been registered or filed.”



activities. With that in mind, police officers, attorneys/prosecutors and advocates should be knowledgeable of these elements in order to educate and inform potential victims.

A person commits the crime of stalking if, with intent to harass another person, the person engages in a course of conduct reasonably likely to harass that person, including but not limited to any combination of the following:

- (i) Communicating, anonymously or otherwise, or causing a communication with another person by verbal, electronic, mechanical, telegraphic, telephonic or written means in a manner that harasses;
- (ii) Following a person, other than within the residence of the defendant;
- (iii) Placing a person under surveillance by remaining present outside his or her school, place of employment, vehicle, other place occupied by the person, or residence other than the residence of the defendant; or
- (iv) Otherwise engaging in a course of conduct that harasses another person. **W.S. 6-2-506(b).**

Course of conduct. "Course of conduct" means a pattern of conduct composed of a series of acts over any period of time evidencing a continuity of purpose. **W.S. 6-2-506(a)(i).** Wyoming requires that the alleged stalker engage in a course of conduct. The crime is not an isolated incident, but rather a series of acts taken together.

Definition of Harass. "Harass" means to engage in a course of conduct, including but not limited to verbal threats, written threats, vandalism or nonconsensual physical contact, directed at a specific person or the family of a specific

person, which the defendant knew or should have known would cause a reasonable person to suffer substantial emotional distress, and which does in fact seriously alarm the person toward whom it is directed. **W.S. 6-2-506(a)(ii).**

- **Statutory Protections.** In Wyoming, police officers are authorized to assist victims before any legal action has been taken against the stalker. A law enforcement officer or agency responding to the request for assistance may take whatever steps are reasonably necessary to protect the victim, including advising the victim of the civil protection order remedies and the availability of shelter, medical care, counseling and other services. Law enforcement may also advise the victim about criminal proceedings and the importance of preserving evidence; and may provide or arrange for transportation of the victim to a medical facility or place of shelter. **W.S. 7-3-511(b).**
- **Court-appointed attorneys.** The statute contains a provision for the court to appoint an attorney to represent an indigent petitioner when the petition is not filed by the district attorney. **W.S. 7-2-507(d).** However, there are neither procedures nor resources in most Wyoming circuit courts to allow for this. In any case, petitioners may hire their own attorney or appear pro se. **W.S. 7-2-507(d).**
- **Victim advocates.** Victim advocates do not provide legal advice but do provide victims with valuable support and assistance.
- **Lethality Factors.** Stalking most commonly occurs between people who have been involved in an intimate relationship, particularly where victims attempt to flee from the abusive relationship. Because the period of the parties' separation is the most likely time for a domestic violence victim to be killed, many law enforcement agencies have begun to regard protection orders as an early warn-

⁸MIKE BRIGNER, THE OHIO DOMESTIC VIOLENCE BENCHMARK, A PRACTICAL GUIDE TO COMPETENCE FOR JUDGES & MAGISTRATES, FAMILY VIOLENCE PREVENTION CENTER, OHIO OFFICE OF CRIMINAL SERVICES, P. 38 (2001). See also Wyo. Stat. Ann. §7-3-510(a) (LexisNexis 2003).

⁹Violence Against Women Act of 1994 § 40231, 18 U.S.C. §§ 2261, 2262. These provisions also prohibit causing a spouse or intimate partner to cross State or tribal lines by force, coercion, duress, or fraud and, in the course of or as a result of such conduct, committing domestic violence or violating a protection order.

¹⁰Violence Against Women Act of 1996, 18 U.S.C. § 2261A, (1996).



ing system. Upon filing, courts should immediately fax copies of protection orders to law enforcement agencies where petitioners live or work. Faxing copies of dismissal entries is also advisable.⁸

- **Federal interstate stalking.** The Violence Against Women Act of 1994 (VAWA) made it a Federal offense to cross State or tribal lines to commit domestic violence or to violate a protection order.⁹ A Federal interstate stalking law¹⁰ prohibits individuals from traveling across a state line with the intent to injure or harass another person and, in the course of or as a result of that travel, placing that person in reasonable fear of the death of, or serious bodily injury to, that person or a member of that person's immediate family.

Penalties. Courts may sentence offenders to 10 years if the offense results in serious bodily injury to the victim or if the offender uses a dangerous weapon, 20 years if permanent disfigurement or life-threatening bodily injury results, and a life sentence if death of the victim results.

- **What Is Cyberstalking?** Although there is no universally accepted definition of cyberstalking, the term is used . . . to refer to the use of the Internet, e-mail, and other electronic communication devices to stalk another person. Stalking generally involves harassing and threatening behavior that an individual engages in repeatedly, such as following a person, appearing at a person's home or place of business, making harassing phone calls, leaving written messages or objects, or vandalizing a person's property. While some conduct involving annoying or menacing behavior might fall short of illegal stalking, such behavior may be a precursor of stalking and violence and should be treated seriously.

Preventing cyberstalking.

To strengthen stalking prosecution tools, Section 113 of the Violence Against Women Act of 2005 amends the Communications Act of 1934 (47 U.S.C. 223(h) (1)) to expand the definition of a telecommunications device—in regard to the current prohibition against

anonymous communications with the intent to annoy, abuse, threaten, or harass the recipient—to include any device or software that uses the Internet and possible Internet technologies such as voice over internet services. This amendment will allow federal prosecutors more options in charging stalkers.

Stalking Protection Orders

In Wyoming, a victim of stalking may petition the court for a Stalking Protection Order. The process is very similar to that of obtaining a Domestic Violence Protection Order, discussed more fully above. **W.S. 7-3-506 through 511.**

Ex parte orders. If the court finds there exists a clear and present danger of further stalking or of serious adverse consequences to any person, the court may grant ex parte a temporary order of protection pending the hearing. **W.S. 7-3-508(b).**

Final Order of Protection. As a part of any order of protection, the court may direct that the respondent:

- (i) Stay away from the home, school, business or place of employment of the victim or any other locations the court may describe in the order; and
- (ii) Refrain from contacting, intimidating, threatening or otherwise interfering with the victim of the alleged offense and any other persons, including but not limited to members of the family or household of the victim, as the court may describe in the order.

W.S. 7-3-509.

Duration of Order of Protection. The duration of any order of protection should be based solely on consideration of petitioner's safety. Effective July 1, 2006, Wyoming's statute allows for the initial order to be "effective for a fixed period of time not to exceed one (1) year." **W.S. 7-3-510(b).** Either party may move to modify, terminate or extend the order.

Elder Abuse

It is the legal responsibility of the Adult Protective Services Agency to respond to and investigate report of al-



leged abuse, neglect, exploitation or abandonment of vulnerable adults, including the elderly. **W.S. 35-21-101 (a)(xii).**

Wyoming's Criminal Sexual Assault Statutes

Sexual assault in the first degree.

(a) Any actor who inflicts sexual intrusion on a victim commits a sexual assault in the first degree if:

- (i) The actor causes submission of the victim through the actual application, reasonably calculated to cause submission of the victim, of physical force or forcible confinement;
- (ii) The actor causes submission of the victim by threat of death, serious bodily injury, extreme physical pain or kidnapping to be inflicted on anyone and the victim reasonably believes that the actor has the present ability to execute these threats;
- (iii) The victim is physically helpless, and the actor knows or reasonably should know that the victim is physically helpless and that the victim has not consented; or
- (iv) The actor knows or reasonably should know that the victim through a mental illness, mental deficiency or developmental disability is incapable of appraising the nature of the victim's conduct.

W.S. 6-2-302.

Sexual assault in the second degree.

(a) Any actor who inflicts sexual intrusion on a victim commits sexual assault in the second degree if, under circumstances not constituting sexual assault in the first degree:

- (i) The actor causes submission of the victim by threatening to retaliate in the future against the victim or the victim's spouse, parents, brothers, sisters or children, and the victim reasonably believes the actor will execute this threat. "To retaliate" includes threats of kidnapping, death, serious bodily injury or extreme physical pain;

- (ii) The actor causes submission of the victim by any means that would prevent resistance by a victim of ordinary resolution;
- (iii) The actor administers, or knows that someone else administered to the victim, without the prior knowledge or consent of the victim, any substance which substantially impairs the victim's power to appraise or control his conduct;
- (iv) The actor knows or should reasonably know that the victim submits erroneously believing the actor to be the victim's spouse;
- (v) At the time of the commission of the act the victim is less than twelve (12) years of age and the actor is at least four (4) years older than the victim;
- (vi) The actor is in a position of authority over the victim and uses this position of authority to cause the victim to submit; or
- (vii) The actor inflicts sexual intrusion in treatment or examination of a victim for purposes or in a manner substantially inconsistent with reasonable medical practices.

(b) A person is guilty of sexual assault in the second degree if he subjects another person to sexual contact and causes serious bodily injury to the victim under any of the circumstances listed in **W.S. 6-2-302(a)(i)** through (iv) or paragraphs (a)(i) through (vi) of this section.

W.S. 6-2-303.

Sexual assault in the third degree.

(a) An actor commits sexual assault in the third degree if, under circumstances not constituting sexual assault in the first or second degree:

- (i) The actor is at least four (4) years older than the victim and inflicts sexual intrusion on a victim under the age of sixteen (16) years; or
- (ii) The actor is an adult and subjects a victim under the age of fourteen (14) years to sexual contact without inflicting sexual intrusion on the victim and without causing serious bodily injury to the victim;
- (iii) The actor subjects a victim to sexual contact under any of the circumstances of **W.S. 6-2-302(a)**



(i) through (iv) or 6-2-303(a)(i) through (vi) without inflicting sexual intrusion on the victim and without causing serious bodily injury to the victim.

W.S. 6-2-304.

Marriage is not a defense. The fact that a person rapes their spouse, is not a defense to the crime of sexual assault. **W.S. 6-2-307.**

Not knowing the victim's age is not a defense. For certain sexual assault crime that depend upon a victim being under twelve (12) years or under fourteen (14) years, it is no defense that the actor did not know the victim's age, or that he reasonably believed that the victim was twelve (12) years or fourteen (14) years of age or older, as applicable. **W.S. 6-2-308.**

Corroboration unnecessary. Corroboration of a victim's testimony is not necessary to obtain a conviction for sexual assault. **W.S. 6-2-311.**

Sexual Assault Examinations. In 2006, the Wyoming Legislatures amended the laws for sexual assault examinations as follows:

- The new law provides that a sexual assault examination may be made by a licensed health care provider acting within the scope of his practice.
- The sexual assault examination may include a medical examination and treatment, evidence collection and evaluation and appropriate referrals for follow up treatment and services.
- Results of the examination and the evidence may be released to a law enforcement agency with consent of the victim.
- The new law allows a minor victim to consent to an examination if the minor's parents cannot be located. It also provides that if a report of sexual assault involves a minor and the alleged perpetrator is the parent or guardian of the minor, the parent shall not be notified.
- The law further requires the examiner to send the bill for specific examination costs to the law enforcement agency investigating the crime.
- The law also specifies that the victim shall be in-

formed of her rights as a victim and her right to informed consent.

- It provides that the sexual assault examination shall remain confidential healthcare information unless the victim or the victim's parent or legal guardian signs a release of the information for prosecution purposes.

W.S. 6-2-309

Resources

There are local domestic violence and sexual assault programs in every county and on the Wind River Indian Reservation. For more information, contact the Coalition above, or look in the Yellow Pages under "Crisis Intervention Services"

Albany County

*SAFE Project

PO Box 665, 312 Steele Street

Laramie, WY 82073

Office: 307-742-7273

Toll Free Crisis Line: 800-230-3556

Crisis Line: 307-745-3556

Fax: 307-745-4510

E-Mail: safeproject@qwest.net

Website: <http://www.safeproject.org>

Big Horn County

C.A.R.E.S.

PO Box 288, 420 West "C" St.

Basin, WY 82410

Office: 307-568-3334

Toll Free Crisis Line: 888-372-3334

Crisis Line: 307-568-3334

Fax: (Call First) 307-568-3377 Or

E-Mail: cares@tctwest.net

Lovell Office

355 E. 5th St.

Lovell, WY 82431

Office: 307-548-2330

Fax: 307-548-7291

E-Mail: cares2lovell@yahoo.com



Campbell County

*Gillette Abuse Refuge Foundation (GARF)

PO Box 3110, 910 E. 3rd St., Ste I.

Gillette, WY 82717

Office: 307-686-8071

Crisis Line: 307-686-8070

Fax: 307-686-8076

E-Mail: garfdirector@vcn.com

Website: www.garf.vcn.com

Carbon County

*Carbon County Citizens Organized to See Violence End (COVE)

PO Box 713, 1101 W. Spruce

Rawlins, WY 82301

Office: 307-324-7071

Toll Free Crisis Line: 866-889-COVE
(866-889-2683)

Fax: 307-324-7075

E-Mail: cove711@yahoo.com

Converse County

*Converse County Coalition

126 N. 5th St., Douglas, WY 82633

Office: 307-358-6148

Toll Free Crisis Line: 800-252-3575

Crisis Line: 307-358-4800

Fax: 307-358-2706

E-Mail: cccafvc@communicomm.com

chesie@netcommander.com

Glenrock Office

PO Box 95, 213 W. Birch #2

Glenrock, WY 82637

Crisis Line: 307-436-8732

Fax: 307-436-5410

Crook County

Crook County FV & SA Services

PO Box 128, 369 West Hwy 14

Sundance, WY 82729

Office: 307-283-2415

Toll Free Crisis Line: 800-815-2299

Crisis Line: 307-283-2415

Fax: 307-283-2455

E-Mail: ccfv@collinscom.net

Fremont County

*Fremont Alliance

PO Box 1127, 510 E. Washington

Riverton, WY 82501

Office: 307-856-0942

Crisis Line: 307-856-4734

Office: 307-856-0942

Fax: 307-856-0945

E-Mail: fcafvo@wyoming.com

klinker@wyoming.com

Goshen County

*Goshen County Task Force

PO Box 561, 1933 Main

Torrington, WY 82240

Office: 307-532-5050

Crisis Line: 307-532-2118

Fax: (Call First) 307-532-3136

E-Mail: gctaskforce@yahoo.com

Hot Springs County

H.O.P.E. Agency/Crisis Line

PO Box 824, 426 Big Horn

Thermopolis, WY 82443

Office: 307-864-4673

Crisis Line: 307-864-4673

Fax: 307-864-2132

E-Mail: hopeagency@rtconnect.net

Johnson County

Family Crisis Center

PO Box 1001, 255 E. Fetterman,

Buffalo, WY 82834

Office: 307-684-2233

Toll Free Crisis Line: 800-684-2030

Fax: 307-684-0878

E-Mail: jcfcc@vcn.com

maxwellmk@hotmail.com

Website: www.jcfcc.vcn.com



Laramie County

*Safe House/Sexual Assault Services, Inc.

PO Box 1885, 1813 Carey Avenue
Cheyenne, WY 82001

Office: 307-634-4220

Crisis Line: 307-637-7233

Fax: 307-634-8657

E-Mail: help@WyomingSafehouse.org

Website: www.WyomingSafehouse.org

Pine Bluffs

PO Box 24, Pine Bluffs, WY 82083

Phone/Fax: 307-245-3165

Lincoln County

*Turning Point

PO Box 64, 1809 Holland Drive
Kemmerer, WY 83101

Office: 307-877-6834

Crisis Line: 307-877-9209

Fax: 307-877-4602

E-Mail: thepoint@hamsfork.net

Afton

Office: 307-885-9072

Crisis Line: 307-885-9491

Fax: 307-855-0754

E-Mail: tpshc@silverstar.com

Natrona County

*Self Help Center

441 S. Center Street, Ste 300
Casper, WY 82601

Office: 307-235-2814

Crisis Line: 307-235-2814

Fax: 307-472-4307

Shelter: 307-265-3059

E-Mail: SHC300@hotmail.com

Niobrara County

Helpmate Crisis Center

PO Box 89, 300 S. Main

Lusk, WY 82225

Office: 307-334-3416

Crisis Line: 307-334-2608

Fax: 307-334-5516

E-Mail: luhelpmt@coffey.com

Park County

*Crisis Intervention Services (CIS)

PO Box 1324, 1220 13th Street
Cody, WY 82414

Office: 307-587-3545

Toll Free Crisis Line: 877-864-9688

Fax: 307-527-7801

E-Mail: lvelker@wyoming.com

Website: www.cispark.org

*Powell Office

335 N. Gilbert, Powell WY 82435

Office: 307-754-7959

Platte County

*Project SAFE

PO Box 8, 1207 9th Street
Wheatland, WY 82201

Office: 307-322-4794

Toll Free Crisis Line: 877-211-1251

Fax: 307-322-4797

E-Mail: projectsafe@qwestoffice.net

Website: www.projectsafewyo.com

Sheridan County

Advocacy & Resource Center

PO Box 581, 136 Coffeen
Sheridan, WY 82801

Office: 307-672-7471

Crisis Line: 307-672-3222

Fax: 307-672-5259

E-Mail: charlotte@arcsheridan.org

Sublette County

*SAFV Task Force

PO Box 1236, 209 E. Magnolia
Pinedale, WY 82941

Office: 307-367-6305



Toll Free Crisis Line: 888-301-4435

Fax: 307-367-9808

E-Mail: cloversafv@vcn.com

Big Piney Office

Office: 307-276-3975

Sweetwater County

*YWCA Support & Safe House (SASH)

PO Box 1667, 707 O'Donnell

Rock Springs, WY 82902

Office: 307-352-6630

Crisis Line: 307-352-1030

Fax: 307-352-6633

E-Mail: sash@ywcasweetwater.org

Website: www.fascination.com/pub/ywcasash

Green River Office

6 N. 1st E.

Green River, WY 82935

Office: 307-872-3250

Crisis Line: 307-872-3250

Fax: 307-872-3236

Teton County

*Community Safety Network

PO Box 1328, 650 E. Hall

Jackson, WY 83001

Office: 307-733-3711

Crisis Line: 307-733-7233

Fax: 307-733-3772

E-Mail: sharel@csnjjh.org, carol@csnjjh.org

Uinta County

*Sexual Assault & Family Violence (SAFV)

350 City View Drive, Ste 203

Evanston, WY 82930

Office: 307-789-3628

Toll Free Crisis Line: 800-997-9026

Crisis Line: 307-789-7315

Fax: 307-789-6978

E-Mail: director@safv-uintacounty.org

Website: www.safv-uinta.com

Washakie County

*Victims of Violence Center

PO Box 494, 101 No 19th

Worland, WY 82401

Office: 307-347-4992

Crisis Line: 307-347-4991

Fax: (Call First) 307-347-4992

E-Mail: vovc@rtconnect.net

Weston County

FOCUS (Foundation of Caring, Understanding & Services)

719 C Washington Blvd

Newcastle, WY 82701

Office: 307-746-2748

Crisis Line: 307-746-3630

Fax: 307-746-4940

E-Mail: ffcc@rtconnect.net

Joint Business Council DV/SA Program

*Sacred Shield WRIR

PO Box 217

St. Stephens, WY 82524

Office: 307-857-3965

Toll Free Crisis Line: 800-803-8596

Fax: 307-857-3983

E-Mail: sacredshield@wyoming.com