

Report of the Subcommittee to Study Battered Spouses  
to the  
House Committee on Health, Welfare and Institutions  
December 6, 1977

This study on the physical abuse of spouses was organized and conducted after the introduction of Senate Joint Resolution No. 89 of the 1977 Session of the General Assembly.

SENATE JOINT RESOLUTION NO. 89

Directing a joint subcommittee of the Senate Courts of Justice and the House Courts of Justice Committees to study the physical abuse of spouses.

WHEREAS, there has been recent nationwide concern over the problem of the physical abuse of spouses, especially the abuse of wives by their husbands; and

WHEREAS, women's groups, social workers, police, and attorneys, among others, have all indicated that a continuing pattern of physical abuse of spouses is a serious problem in many Virginia families; and

WHEREAS, many of those cases in which spouse abuse is a continuing pattern are not reported to the police or other proper authorities; and

WHEREAS, there have been allegations that those cases that are reported are not adequately investigated or properly handled; and

WHEREAS, physical abuse of spouses, in addition to causing harm to the individual abused, is detrimental to the welfare of the entire family; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Senate Committee for Courts of Justice and the Committee for Courts of Justice of the House of Delegates are directed to

appoint a joint subcommittee, composed of four members of the House of Delegates and three members of the Senate to study the problem of physical abuse of spouses. The subcommittee may appoint citizen members, not to exceed four in number, to assist in the study. The subcommittee investigation shall include, but not necessarily be limited to, the frequency of spouse abuse; the extent to which such abuse is reported; the adequacy of the investigation of reported cases; and the needs of the members of the family, including shelter for spouse and children, in which spouse abuse is a pattern of behavior.

Upon the completion of the study, the Committees shall make whatever recommendations they deem appropriate.

## HISTORY

Although Senate Joint Resolution No. 89 was not agreed to by the House Courts of Justice Committee of the 1977 Session of the General Assembly, the House Committee on Health, Welfare and Institutions agreed that enough concern had been generated about the issue to conduct a study of the physical abuse of spouses. Consequently, the Committee appointed the Subcommittee to Study Battered Spouses chaired by Delegate John D. Gray of Hampton. Selected to serve as members of the Subcommittee with Delegate Gray were Delegates Charles W. Gunn, Jr. of Lexington; Robert R. Gwathmey, III of Mechanicsville; Evelyn M. Hailey of Norfolk; Johnny S. Joannou of Portsmouth; Joan S. Jones of Lynchburg; Mary A. Marshall of Arlington, Warren G. Stambaugh of Arlington and W. Ward Teel of Christiansburg.

During September and October of 1977, the Subcommittee held a series of public hearings throughout the State to obtain information on potential legislation to assist the victims of spouse abuse.

The following is an account of testimony presented to the Subcommittee during the public hearings and of recommendations for legislative action.

#### FINDINGS

"Time and again I have pointed out the discrepancy between theory and practice with regard to the battered woman's options and the legal relief she can expect from the social system. In theory a wife who is beaten by her husband can leave him and get a divorce. In reality she must go to extremes to prove she deserves a divorce, and very often her suit is denied. In theory a wife-beater, as with anyone else who commits physical assault is apprehended, prosecuted, and punished. In practice the offender is above the law because of his marital status and is seldom held responsible for his criminal acts. For the sake of sanity, if not human decency, our social institutions must translate these theoretical options into practice through legislation."<sup>1</sup>

In Virginia, there are no statutes that specifically deal with violence between husbands and wives. When such disturbances enter the courts, they are usually prosecuted under the Virginia criminal laws on homicide, assault and bodily wounding. Beating one's spouse is criminal-assault and battery, a Class 1 misdemeanor, punishable by confinement in jail for up to one year. Before a law enforcement officer can make an arrest for a misdemeanor, the offense must be committed in his presence, or a warrant or summons must have been issued. A private citizen also has the right to arrest, without warrant, one who commits a breach of the peace in his or her presence.

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<sup>1</sup>Martin, Del., Battered Wives, San Francisco, California; 1976, Glide Publications, 1976, p. 175.

Exactly who is the battered spouse and what can the General Assembly do to help this person? Mrs. Edith R. Herman, a psychotherapist in Fairfax County, testified that "with rare exception the abused spouse is the wife . . . . abused women come from all socio-economic classes . . . . all ages . . . . may be childless, pregnant or have children."

In ascertaining the needs of the abused spouse, the Subcommittee heard in each public hearing that the highest priority is the need for shelters where the battered wife can seek physical safety for herself and her children.

Representatives of a few private organizations and clubs told the Subcommittee that shelters have been established in their communities predominantly through the efforts of volunteers. However, the few existing shelters are unable to meet the needs of the many abused women in the localities because of the lack of space. These service organizations emphasized the need for State and federal funds to aid localities in establishing a statewide network of shelters so that women in rural areas as well as urban areas can have access to the facilities.

Nina Banner of the Peninsula Task Force on Battered Women suggested that the State establish an "inter-agency council, similar to one formed last year on housing for the retarded, with representatives from various State and local agencies, [which] might be useful as a guiding force in the State for providing for the shelter needs of battered women."

Suggestions for services to be offered by the shelters included: twenty-four hour operation, day care facilities for the children, dining facilities, laundry services, transportation services, counseling in job-training and employment opportunities, mental health and psychiatric care, legal advice and medical care.

A more immediate approach, however, would be for the shelters to serve as referral agencies to existing services which could assist the battered spouse.

Testimony in the public hearings asserted the need for a cooperative network of human services which could work with the shelters in helping battered spouses. These "human services" already exist; however, a better reporting system is needed so that the spouse suffering abuse can obtain immediate help. In her book, Battered Wives, Del Martin writes that "The police, district attorney, doctors and hospital emergency attendants, family and social service agencies, and mental health clinics should be required . . . to keep records of such cases and send them to a designated central registry for compilation. Researchers could then determine trends and patterns in the use of these agencies and pinpoint trouble areas, including identification of repeat calls."<sup>2</sup>

Currently, the "human service agency" from which the battered spouse seeks initial assistance is the police department. As Andy Wright indicated in a paper entitled, "Wife Abuse: The Problem and A Proposal for Virginia", "law enforcement officers are generally

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<sup>2</sup>Ibid., p. 182.

not trained to mediate or to refer battered wives, they are, however, instructed to avoid arrest whenever possible." Therefore, police officers are forced into situations that they are not trained to handle. Lieutenant Paul Clark of Portsmouth told the Subcommittee that 15,448 police officers were assaulted last year in the United States, and 20 were killed. Lieutenant Clark and others testifying before the Subcommittee suggested the need for "crisis intervention teams" of mental health professionals who would be available on call to assist police in a domestic crisis. Thomas M. Geib, Mental Health Services Division Chief in Arlington County, suggested the formation of male-female teams of police officers trained in domestic counseling and in the handling of family violence. The rationale is that the team could diffuse the family crisis by allowing the female police officer to work with the wife and children and the male officer to work with the husband.

Others testifying recommended that police officers be allowed to arrest a person without a warrant if the officer reasonably believes that the person has committed an assault or battery upon his or her spouse. A copy of a 1976 bill introduced in the Florida legislature addressing this issue is included in the appendix to this report. (See Exhibit A.)

The role of the Commonwealth's Attorneys and the courts in domestic disturbances was also addressed in the public hearings. Andy Wright, a University of Virginia law student, told the Subcommittee that once a domestic disturbance case reaches the

court, the abusing spouse who is charged with a misdemeanor is represented by court-appointed counsel. The victim who is usually economically dependent upon the abuser has no counsel. Mr. Wright stated that the Commonwealth's Attorneys are seldom involved in domestic situations. He recommends that the Commonwealth's Attorneys be required to prosecute in a domestic disturbance case when one spouse has been charged with a criminal offense.

Assessing the role of the court in domestic violence, the Subcommittee learned that in 1976 Pennsylvania passed a "Protection From Abuse Act" which permits the court to order the abusing spouse out of the home for up to one year or to provide "suitable, alternate housing" for the victim and the children. A copy of this act is included in the appendix to this report. (See Exhibit B.)

Linda Redmond of the South Richmond Mental Health Clinic recommended that "court-ordered psychiatric evaluation should be utilized along with and as a requirement of probation." Ms. Redmond and others emphasized the need for treatment of the abuser rather than incarceration. It was suggested that the courts adopt a program similar to the Alcohol Safety Action Program in spouse abuse cases whereby the abuser would be ordered to submit to treatment or be sentenced to jail. Ms. Redmond added that "restraining orders must include explicit warnings against failure to comply." Some suggested that violation of a restraining order be made a felony.

In Virginia, the peace bond is utilized by judges and magistrates in cases of spouse abuse. The peace bond is a "conditional fine," that is, once the condition is satisfied the payor is entitled to reimbursement. Several people told the Subcommittee that the peace bond is ineffective in treating the abuser or in breaking the pattern of abuse. Once the abuser satisfies the conditions of the bond, he begins repeating the abuse.

A great deal of the testimony presented to the Subcommittee substantiated the need to break this "chain of abuse." Professionals experienced in dealing with spouse abuse cited the high correlation between wife abuse and child abuse. Edith Herman of Fairfax asserted that "there is a learning and transmission of violent behavior from one generation to the next." A battered wife from Roanoke told the Subcommittee that as a child she had witnessed her father beating her mother, so she grew up believing that a husband has the right to beat his wife. Treatment for the entire family is needed. The abuser, the victim and the children involved need to be referred to some sort of counseling which may be attached to the courts as a requirement of probation or may be mental health clinics or family counseling centers to which judges and magistrates could refer clients. The key here is assuring that families take advantage of the treatment and that adequate follow up is provided to assure that the abuse does not recur.



Another contributor to the "chain of abuse" is alcohol.

Testimony presented to the Subcommittee revealed:

Chesapeake District Court: 80% of the people coming to court with warrants are involved in wife beating (75% related to alcohol abuse).

A Tidewater Crisis Center: There is at least one call every two weeks dealing with spouse abuse with a high incidence of alcohol-related abuse.

A battered woman who testified in Roanoke stated that her husband was usually drinking when he hit her.

Commander Kenneth L. Coleman of the Lynchburg Police Department stated that one-half of the reported abuse cases are alcohol-related.

Vince Camarca, Psychologist with the Rappahannock Guidance Center: ". . . there isn't any particular type of male likely to be a wife beater. However, evidence shows the problem is often alcohol-related. In one-half the cases, one or both spouses have been drinking. Alcohol leads to aggression and violence."

The high correlation between alcohol abuse and spouse abuse prompted Thomas M. Geib of Arlington County to suggest that revenue from the tax on alcoholic beverages be used to fund shelters and services for the battered spouse. Treatment for the abuser who may also be an alcoholic and for the family is essential.

Finally, the battered spouse has the alternative of divorce. Sylvia Clute, a Richmond attorney, told the Subcommittee that even the divorce laws present barriers to the battered spouse. She said that when Virginia adopted a no-fault divorce law, "it continued to make the right to support hinge on fault so that only an innocent party can be awarded support. Any fault grounds,

including desertion, are an absolute bar to support." Furthermore, as Andy Wright points out in the paper previously mentioned, "There is a one year waiting period from the date of the act of cruelty until the innocent party can be granted a divorce." Mr. Wright proposes removal of the one year waiting period for divorce on the grounds of cruelty because it has not proven effective in bringing about reconciliation between the partners.

Sylvia Klute also explained to the Subcommittee that the wife's economic dependence on the husband is enhanced by the fact that "Virginia law doesn't allow an equitable division of the 'property within the marriage'." The homemaker who contributes a lifetime to her husband and children rarely receives monetary compensation. Therefore, in a division of the assets of the marriage, the wife's only hope is alimony "which is a prospective payment of money yet to be earned and hopefully collected."

Ms. Klute and others testifying to the Subcommittee asked the General Assembly to examine Virginia's divorce laws, comparing them with the federal "Uniform Marriage and Divorce Act," and especially to consider a shortening of the waiting period in cases where physical abuse has occurred.

The need for education of women concerning their legal rights was also brought out in the public hearings. The Subcommittee heard suggestions to begin classes in the public schools which should also be offered to adult members of the community. Mr. Bill Phelps, head magistrate of the Norfolk General District Court, told the Subcommittee that often a woman does not understand what a warrant

is. Consequently, the woman is unaware of her legal alternatives. Mr. Phelps pointed out the need to educate court personnel to understand and to deal with the problem of the battered woman. Other testifiers suggested that a human service or mental health professional sit with the judge or magistrate or be available to advise in domestic violence cases.

Overall, the problems of the battered spouse seem monumental. Certainly, the testimony in the public hearings evidenced that vast numbers of Virginia's citizens are plagued by domestic violence.

#### RECOMMENDATIONS

In consideration of the evidence gathered by this Subcommittee, the following recommendations are made:

1. Establishment of shelters for the battered spouse.

The Subcommittee recommends that localities be encouraged to establish community-based and supported shelters for battered spouses and their children. Such facilities will be better accepted and supported if they are initiated at the local level. The Department of Welfare is encouraged to establish as a specific and priority item of Title XX funding in the localities the provision of ~~shelter care facilities~~ <sup>information and referral services</sup> for ~~of battered husbands and wives~~ <sup>spouses</sup> and their children <sup>in need of shelter</sup>. See Exhibit C.

2. Provision for uniform statewide reporting system.

The Virginia State Police, local police departments and juvenile and domestic relations district courts are encouraged to keep records as to the specific nature of offenses generally categorized as domestic violence. Such records should keep account of all simple

assault, complaints, all aggravated assault complaints, identify the cases arising between spouses living together or estranged spouses, the sex of the alleged offender and victim and indicate whether the crime was cleared by a charge and/or arrest, by the complainant failing to obtain a warrant or by some other solution. State and local police and the juvenile courts are requested to report to the 1979 Session of the General Assembly a compilation of the statistics gathered on domestic violence. See Exhibit D.

3. Consideration of proposal relating to arrest for assault and battery. The Subcommittee recommends consideration of, but does not endorse, a legislative proposal to permit a law enforcement officer to arrest on probable cause an individual who is alleged to have committed battery upon the person's spouse. See Exhibit E.

4. Court-ordered treatment for the abuser in spouse abuse cases. The Subcommittee recommends that juvenile and domestic relations district courts be specifically empowered to order treatment and counseling for both spouses in addition to imposing criminal penalties for offenses committed by one spouse against another. The conditions and limitations which the court should be empowered to prescribe in such cases should include the power to order the abusing spouse to pay the costs of crisis care for the victim spouse. See Exhibit F.

5. Examination of the divorce laws. During the Subcommittee's public hearings, the members were urged to consider certain changes in the divorce laws relating to cruelty as to grounds for divorce and the division of marital property. The Subcommittee concluded that these matters were beyond the scope of this study and consequently, makes no recommendations in this regard.

6. Public education regarding resources available to assist victims of family violence. The Subcommittee supports and encourages the efforts of public and private organizations which seek to improve the public's awareness of services available through local police departments, juvenile courts, social services, mental health clinics, crisis intervention centers and the like which assist families in trouble. The use of literature, the news media and public information programs to promote the availability of services in this field is to be commended.

7. Spousal tort immunity for assault and battery. The Subcommittee recommends the consideration of, but does not endorse, a legislative proposal to permit a married person to sue his or her spouse in tort for an assault or battery committed against the person as fully as if the parties were unmarried. See Exhibit G.

8. Training of law enforcement officers in the handling of domestic violence cases. The Subcommittee recommends that the Criminal Justice Services Commission, pursuant to its power in §9-109 of the Code of Virginia to

"(3) Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools operated by or for the State or any political subdivisions thereof for the specific purpose of training law-enforcement officers."

be encouraged to require the training of law enforcement officers in the management and resolution of domestic quarrels. See Exhibit H.

APPENDICES

House Bill No. 62

AN ACT relating to arrests; adding subsection (6) to s. 901.15, Florida Statutes, authorizing a peace officer to arrest a person without a warrant if the officer has probable cause to believe that the person has committed a battery upon the person's spouse and the officer finds evidence of bodily harm or reasonably believes that there is danger of further violence; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (6) is added to section 901.15, Florida Statutes, to read:

901.15 When arrest by officer without warrant is lawful.--A peace officer may arrest a person without a warrant when:

(6) The officer has probable cause to believe that the person has committed a battery upon the person's spouse, and the officer finds evidence of bodily harm or the officer reasonably believes that there is danger of violence unless the person alleged to have committed the battery is arrested without delay.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor May 30, 1977.

Filed in Office Secretary of State May 31, 1977.

RECEIVED

LEGISLATIVE SERVICES

This public document was promulgated at a base cost of \$11.86 per page for 1,500 copies or \$.0079 per single page for the purpose of informing the public of Acts passed by the Legislature.

*Official Advance Copy of Statute Enacted at 1976 Session*

No. 218

AN ACT

SB 1243

Relating to abuse of adults and children by a person who resides with them; and providing for remedies and procedures.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title.—This act shall be known and may be cited as the “Protection From Abuse Act.”

Section 2. Definitions.—As used in this act:

“Abuse” means the occurrence of one or more of the following acts between family or household members who reside together:

(i) Attempting to cause or intentionally, knowingly or recklessly causing bodily injury or serious bodily injury with or without a deadly weapon.

(ii) Placing by physical menace another in fear of imminent serious bodily injury.

(iii) Sexually abusing minor children as defined pursuant to the act of November 26, 1975 (No.124), known as the “Child Protective Services Law.”

“Adult” means any person 18 years of age or older.

“Court” shall mean the court of common pleas.

“Family or household members” means spouses, persons living as spouses, parents and children, or other persons related by consanguinity or affinity.

Terms not otherwise defined by this act shall have the meaning given to them by the Crimes Code.

Section 3. Jurisdiction.—The court shall have jurisdiction over all proceedings under this act. The plaintiff's right to relief under this act shall not be affected by his or her leaving the residence or household to avoid further abuse.

Section 4. Commencement of Proceeding.—A person may seek relief under this act for himself or herself, or any parent or adult household member may seek relief under this act on behalf of minor children by filing a petition with the court alleging abuse by the defendant.

Section 5. Hearings.—(a) Within ten days of the filing of a petition under this act a hearing shall be held at which the plaintiff must prove the allegation of abuse by a preponderance of the evidence. The court shall advise the defendant of his right to be represented by counsel.

(b) The court may enter such temporary orders as it deems necessary to protect the plaintiff or minor children from abuse, upon good cause shown in an ex-parte proceeding. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause for purposes of this section.



(c) If a hearing under subsection (a) is continued, the court may make or extend such temporary orders under subsection (b) as it deems necessary.

Section 6. Relief. (a) The court shall be empowered to grant any protection order or approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children, which may include:

(1) Directing the defendant to refrain from abusing the plaintiff or minor children.

(2) Granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant and/or restoring possession to the plaintiff when the residence or household is jointly owned or leased by the parties.

(3) When the defendant has a duty to support the plaintiff or minor children living in the residence or household and the defendant is the sole owner or lessee, granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant and/or restoring possession to the plaintiff, or by consent agreement allowing the defendant to provide suitable, alternate housing.

(4) Awarding temporary custody of and/or establishing temporary visitation rights with regard to minor children.

(b) Any protection order or approved consent agreement shall be for a fixed period of time not to exceed one year. The court may amend its order or agreement at any time upon subsequent petition filed by either party.

(c) No order or agreement under this act shall in any manner affect title to any real property.

Section 7. Notification. —A copy of any order under this act shall be issued to the plaintiff, the defendant and the police department with appropriate jurisdiction to enforce the order or agreement.

Section 8. Emergency Relief.—(a) When the court is unavailable from the close of business at the end of the week to the resumption of business at the beginning of the week a petition may be filed before a district justice who may grant relief in accordance with section 6(a),(2) or (3) if the district justice deems it necessary to protect the plaintiff or minor children from abuse, upon good cause shown in an ex-parte proceeding. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause for purposes of this section.

(b) Any order issued under subsection (a) shall expire as of the resumption of business of the court at the beginning of the week or within 72 hours, whichever occurs sooner; at which time, the plaintiff may seek a temporary order from the court.

(c) Any order issued under this section and any documentation in support thereof shall be immediately certified to the court. Such certification to the court shall have the effect of commencing proceedings under section 4 and invoking the other provisions of this act.

Section 9. Procedure.—Any proceeding under this act shall be in accordance with the Rules of Civil Procedure and shall be in addition to any other available civil or criminal remedies.

Section 10. Contempt.—Upon violation of a protection order or a court approved consent agreement the court may hold the defendant in contempt and punish him in accordance with law.

Section 11. Effective Date.—This act shall take effect in 60 days.

APPROVED: The 7th day of October, A. D. 1976.

MILTON J. SHAPP

Resolution to be Drafted Incorporating  
Recommendations #1 and #2.

1     Records           D 12/4/77 LBH   T 12/5/77 bol

2                   HOUSE JOINT RESOLUTION NO.....

3     Requesting the State Police, local police departments and  
4         juvenile and domestic relations district courts to keep  
5         records containing certain specific information of  
6         complaints of domestic assaults.

7

8           WHEREAS, the House Committee on Health, Welfare and  
9     Insitutions conducted a study on battered spouses during  
10    1977; and

11          WHEREAS, the evidence gathered during that study  
12     indicates that physical violence inflicted by people against  
13     their spouses is prevalent in all levels of society; and

14          WHEREAS, not only are these interspousal assaults  
15     physically injurious to the victim, but the reliance on  
16     violence as a means of resolving domestic disputes neither  
17     produces marital harmony nor promotes an emotional  
18     atmosphere conducive to healthy childhood development; and

19          WHEREAS, a major obstacle in reducing the use of  
20     physical violence as a means of resolving domestic disputes  
21     is the lack of data concerning its incidence and its cause;  
22     and

23          WHEREAS, collection of data and an understanding of the  
24     nature of domestic violence is a prerequisite to any  
25     informed solution to the problems; now, therefore, be it

26          RESOLVED by the House of Delegates, the Senate  
27     concurring That the Virginia State Police, all county and

1 city police departments and juvenile and domestic relations  
2 district courts in the Commonwealth are requested to  
3 keep records of all simple assault complaints and all  
4 aggravated assault complaints, to identify the cases arising  
5 between spouses living together, or estranged spouses and  
6 the sex of the alleged offender and victim and to show  
7 whether the crime was cleared by a charge and/or arrest, by  
8 the complainant failing to obtain a warrant, or by some  
9 other solution; and be it

10       RESOLVED FURTHER, That the Virginia State Police, all  
11 county and city police departments and juvenile and domestic  
12 relations district courts are requested to report a  
13 compilation of the statistics gathered on domestic violence  
14 to the nineteen hundred seventy-nine Session of the General  
15 Assembly; and be it

16       RESOLVED FINALLY, That the Clerk of the House of  
17 Delegates is directed to send copies of this resolution to  
18 the Superintendent of the Virginia State Police, the chief  
19 of police of every county and city police department and to  
20 each judge of a juvenile and domestic relations district  
21 court.

22

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1 Warrant D 12/4/77 LBH T 12/5/77 bol

2 A BILL to amend and reenact § 19.2-81 of the Code of  
3 Virginia, relating to arrests without warrants.

4

5 Be it enacted by the General Assembly of Virginia:

6 1. That § 19.2-81 of the Code of Virginia is amended and  
7 reenacted as follows:

8 § 19.2-81. Arrest without warrant authorized in certain  
9 cases.--Members of the State Police force of the  
10 Commonwealth, the sheriffs of the various counties, and  
11 their deputies, the members of any county police force, the  
12 members of any duly constituted police force of any city or  
13 town of the Commonwealth and the special policemen of the  
14 counties as provided by §15.1-144, provided such officers  
15 are in uniform, or displaying a badge of office, may arrest,  
16 without a warrant, any person who commits any crime in the  
17 presence of such officer and any person whom he has  
18 reasonable grounds or probable cause to suspect of having  
19 committed a felony not in his presence; and any such officer  
20 may, at the scene of any motor vehicle accident, or in the  
21 apprehension of any person charged with the theft of any  
22 motor vehicle, on any of the highways of the Commonwealth,  
23 upon reasonable grounds to believe, based upon personal  
24 investigation, including information obtained from  
25 eyewitnesses, that a crime has been committed by any person  
26 then and there present, apprehend such person without a

1 warrant of arrest; and such officers may arrest, without a  
2 warrant, persons duly charged with crime in another  
3 jurisdiction upon receipt of a photocopy of a warrant,  
4 telegram, computer printout, facsimile printout, a radio,  
5 telephone or teletype message, in which photocopy of a  
6 warrant, telegram, computer printout, facsimile printout,  
7 radio, telephone or teletype message shall be given the name  
8 or a reasonably accurate description of such person wanted,  
9 the crime alleged and an allegation that such person is  
10 likely to flee the jurisdiction of the Commonwealth; and  
11 such officers may arrest without a warrant for an alleged  
12 misdemeanor not committed in their presence involving  
13 shoplifting in violation of § 18.2-96 or 18.2-103, when such  
14 arrest is based on probable cause upon reasonable complaint  
15 of the person who observed the alleged offense; and such  
16 officers may arrest without a warrant for an alleged  
17 misdemeanor not committed in their presence when such arrest  
18 is based on probable cause that the person has committed a  
19 battery upon the person's spouse and the officer finds  
20 evidence of bodily harm or the officer reasonably believes  
21 that there is danger of violence unless the person alleged  
22 to have committed the battery is arrested without delay .

23

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1 Treatment D 12/4/77 LBH T 12/5/77 bol

2 A BILL to amend and reenact § 16.1-279 of the Code of  
3 Virginia, relating to dispositions of cases before the  
4 juvenile and domestic relations district court.

5

6 Be it enacted by the General Assembly of Virginia:

7 1. That § 16.1-279 of the Code of Virginia is amended and  
8 reenacted as follows:

9 § 16.1-279. Disposition. A. If a child is found to be  
10 abused or neglected, the juvenile court or the circuit  
11 court, as the case may be, may make any of the following  
12 orders of disposition to protect the welfare of the child:

13 1. Enter an order pursuant to the provisions of  
14 §16.1-278.

15 2. Permit the child to remain with his or her parent,  
16 guardian, legal custodian or other person standing in loco  
17 parentis subject to such conditions and limitations as the  
18 court may order with respect to such child, and his or her  
19 parent, guardian, legal custodian or other person standing  
20 in loco parentis.

21 3. After a finding that there is no less drastic  
22 alternative, transfer legal custody subject to the  
23 provisions of §16.1-281 to any of the following:

24 a. A relative or other individual who, after study, is  
25 found by the court to be qualified to receive and care for  
26 the child.



1           b. A child welfare agency, private organization or  
2 facility which is licensed or otherwise authorized by law to  
3 receive and provide care for such child; provided, however,  
4 no court shall transfer legal custody of an abused or  
5 neglected child to an agency, organization or facility out  
6 of the State without the approval of the Commissioner of  
7 Public Welfare.

8           c. The local department of public welfare or social  
9 services of the county or city in which the court has  
10 jurisdiction or, at the discretion of the court, to the  
11 local board of the county or city in which the child has  
12 residence if other than the county or city in which the  
13 court has jurisdiction, which board shall accept such child  
14 for care and custody; provided, however, that such local  
15 board if one other than in the county or city in which the  
16 court has jurisdiction, shall not be required to accept such  
17 child until it has been given reasonable notice of the  
18 pendency of the case and an opportunity to be heard. Nothing  
19 herein shall be construed as prohibiting the commitment of a  
20 child to any local board of public welfare or social  
21 services in the State when such local board consents to the  
22 commitment.

23           4. Transfer legal custody pursuant to subsection A 3  
24 hereof and order the parent, guardian, legal custodian or  
25 other person standing in loco parentis to participate in  
26 such services and programs or to refrain from such conduct  
27 as the court may prescribe.

28           5. Terminate the rights of such parent, guardian, legal

1 custodian or other person standing in loco parentis pursuant  
2 to §16.1-283.

3 B. Where a parent or other custodian seeks to be  
4 relieved of the care and custody of any child pursuant to  
5 subsection A 4 of §16.1-241 or where a public or private  
6 agency seeks to gain approval of an entrustment agreement  
7 pursuant to §63.1-56 or §63.1-204, the juvenile court or the  
8 circuit court may, after compliance with §16.1-277, make any  
9 of the orders of disposition permitted in a case involving  
10 an abused or neglected child; provided, however, that no  
11 order of disposition shall be made over the objection of any  
12 party, which was not provided for or requested in the  
13 entrustment agreement or in the petition's prayer for  
14 relief.

15 C. If a child is found to be in need of services, the  
16 juvenile court or the circuit court, as the case may be, may  
17 make any of the following orders of disposition for the  
18 supervision, care and rehabilitation of the child:

19 1. Enter an order pursuant to the provisions of  
20 §16.1-278.

21 2. Permit the child to remain with his or her parent,  
22 guardian, legal custodian or other person standing in loco  
23 parentis subject to such condition and limitations as the  
24 court may order with respect to such child and his or her  
25 parent, guardian, legal custodian or other person standing  
26 in loco parentis.

27 3. Place the child on probation under such conditions  
28 and limitations as the court may prescribe.

1           4. In the case of any child, fourteen years of age or  
2 older, where the court finds that the school officials have  
3 made a diligent effort to meet the child's educational  
4 needs, and after study, the court further finds that the  
5 child is not able to benefit appreciably from further  
6 schooling, the court may:

7           a. Excuse the child from further compliance with any  
8 legal requirement of compulsory school attendance, and

9           b. Authorize the child, notwithstanding the provisions  
10 of any other law, to be employed in any occupation which is  
11 not legally declared hazardous for children under the age of  
12 eighteen.

13           5. Transfer legal custody to any of the following:

14           a. A relative or other individual who, after study, is  
15 found by the court to be qualified to receive and care for  
16 the child.

17           b. A child welfare agency, private organization or  
18 facility which is licensed or otherwise is authorized by law  
19 to receive and provide care for such child; provided,  
20 however, no court shall transfer legal custody of a child in  
21 need of services to an agency, organization or facility out  
22 of the State without the approval of the Commissioner of  
23 Public Welfare.

24           c. The local department of public welfare or social  
25 services of the county or city in which the court has  
26 jurisdiction or, at the discretion of the court, to the  
27 local board of the county or city in which the child has  
28 residence if other than the county or city in which the

1 court has jurisdiction, which board shall accept such child  
2 for care and custody; provided, however, that such local  
3 board if one other than in the county or city in which the  
4 court has jurisdiction, shall not be required to accept such  
5 child until it has been given reasonable notice of the  
6 pendency of the case and an opportunity to be heard. Nothing  
7 herein shall be construed as prohibiting the commitment of a  
8 child to any local board of public welfare or social  
9 services in the State when such local board consents to the  
10 commitment.

11 D. Unless a child found to be abused, neglected or in  
12 need of services shall also be found to be delinquent and  
13 shall be older than ten years of age, he shall not be  
14 committed to the State Board of Corrections.

15 E. If a child is found to be delinquent, the juvenile  
16 court or the circuit court may make any of the following  
17 orders of disposition for his supervision, care and  
18 rehabilitation:

19 1. Enter an order pursuant to the provisions of  
20 §16.1-278.

21 2. Permit the child to remain with his or her parent,  
22 guardian, legal custodian or other person standing in loco  
23 parentis subject to such conditions and limitations as the  
24 court may order with respect to such child and his or her  
25 parent, guardian, legal custodian or other person standing  
26 in loco parentis.

27 3. Order the parent, guardian, legal custodian or other  
28 person standing in loco parentis of a child living with such

1 person to participate in such programs, cooperate in such  
2 treatment or be subject to such conditions and limitations  
3 as the court may order and as are designed for the  
4 rehabilitation of the child and parent, guardian, legal  
5 custodian or other person standing in loco parentis of such  
6 child.

7 4. Place the child on probation under such conditions  
8 and limitations as the court may prescribe.

9 5. Impose a fine not to exceed five hundred dollars  
10 upon such child.

11 6. Suspend the motor vehicle and operator's license of  
12 such child.

13 7. Require the child to make restitution or reparation  
14 to the aggrieved party or parties for actual damages or loss  
15 caused by the offense for which the child was found to be  
16 delinquent.

17 8. In case of traffic violations, impose the penalties  
18 which are authorized to be imposed on adults for such  
19 violations.

20 9. Transfer legal custody to any of the following:

21 a. A relative or other individual who, after study, is  
22 found by the court to be qualified to receive and care for  
23 the child.

24 b. A child welfare agency, private organization or  
25 facility which is licensed or otherwise authorized by law to  
26 receive and provide care for such child; provided, however,  
27 no court shall transfer legal custody of a delinquent child  
28 to an agency, organization or facility outside of the State

1 without the approval of the Director.

2 c. The local department of public welfare or social  
3 services of the county or city in which the court has  
4 jurisdiction or, at the discretion of the court, to the  
5 local board of the county or city in which the child has  
6 residence if other than the county or city in which the  
7 court has jurisdiction, which board shall accept such child  
8 for care and custody; provided, however, that such local  
9 board if one other than in the county or city in which the  
10 court has jurisdiction, shall not be required to accept such  
11 child until it has been given reasonable notice of the  
12 pendency of the case and an opportunity to be heard. Nothing  
13 herein shall be construed as prohibiting the commitment of a  
14 child to any local board of public welfare or social  
15 services in the State when such local board consents to the  
16 commitment.

17 10. Commit the child to the State Board of Corrections;  
18 provided, however, no child ten years of age and under shall  
19 be committed to the State Board.

20 11. Impose the penalty authorized by §16.1-284.

21 F. In cases involving the custody, visitation or  
22 support of a child pursuant to subsection A 3 of §16.1-241,  
23 the court may make any order of disposition to protect the  
24 welfare of the child and family as may be made by the  
25 circuit court.

26 G. In cases involving a child who is adjudged mentally  
27 ill or is judicially certified as eligible for admission to  
28 a treatment facility for the mentally retarded, disposition

1 shall be in accordance with the provisions of chapters 1  
2 (§37.1-1 et seq.) and 2 (§37.1-63 et seq.) of Title 37.1 of  
3 the Code.

4 H. In cases involving judicial consent to the matters  
5 set out in subsections C and D of §16.1-241, the juvenile  
6 court or the circuit court may make any appropriate order to  
7 protect the health and welfare of the child.

8 I. In cases involving charges of desertion, abandonment  
9 or failure to provide support by any person in violation of  
10 law, disposition shall be made in accordance with chapter 5  
11 (§20-61 et seq.) of Title 20 of the Code. Each juvenile and  
12 domestic relations district court may enter judgment for  
13 money in any amount for arrears of support and maintenance  
14 of any person in cases where (1) the court has previously  
15 acquired personal jurisdiction over all necessary parties or  
16 a proceeding in which such jurisdiction has been obtained  
17 has been referred or transferred to the court by a circuit  
18 court or another juvenile and domestic relations district  
19 court and (2) payment of such money has been previously  
20 ordered by the court, a circuit court, or another juvenile  
21 and domestic relations district court. Provided, however,  
22 that no such judgment shall be entered unless a petition of  
23 a party, a probation officer, a superintendent of public  
24 welfare, or on the court's own motion, is duly served on the  
25 person against whom judgment is sought, in accordance with  
26 the applicable provisions of law, relating to notice when  
27 proceedings are reopened, which petition shall contain a  
28 caption stating forth the name of the court, the title of

1 the action, the names of all parties and the address of the  
2 party against whom judgment is sought, and which states the  
3 amount of arrearage for which judgment is sought, and the  
4 date and time when such judgment will be sought. The judge  
5 or clerk of the court shall certify and deliver an abstract  
6 of any judgment entered pursuant to this section to the  
7 clerk of the circuit court of the same judicial district,  
8 and executions upon such judgment may be issued by the clerk  
9 of such circuit court. If the amount of the judgment does  
10 not exceed five thousand dollars, exclusive of interest and  
11 any attorney's fees, an abstract of any such judgment  
12 entered pursuant to this section may be delivered to the  
13 clerk of the general district court of the same judicial  
14 district, and executions upon such judgment may be issued by  
15 the clerk of such general district court. Arrearages  
16 accumulated prior to July one, nineteen hundred seventy-six,  
17 shall also be subject to the provisions hereof.

18 J. In cases involving a child who is not able to obtain  
19 a work permit under other provisions of law, the juvenile  
20 court or the circuit court may grant a special work permit  
21 on forms furnished by the Department of Labor and Industry,  
22 subject to such restrictions and conditions as it may deem  
23 appropriate and as may be set out in chapter 5 (§40.1-78 et  
24 seq.) of Title 40.1 of the Code.

25 K. In cases involving petitions filed by or on behalf  
26 of a child or such child's parent, guardian, legal custodian  
27 or other person standing in loco parentis for the purpose of  
28 obtaining treatment, rehabilitation or other services



1 required by law to be provided for such persons, the  
2 juvenile court or the circuit court, as the case may be, may  
3 enter an order in accordance with §16.1-278.

4 L. In cases involving the violation of any law,  
5 regulation or ordinance for the education, protection or  
6 care of children or involving offenses committed by one  
7 spouse against another, the juvenile court or the circuit  
8 court may impose a penalty prescribed by applicable sections  
9 of the Code; provided, however, in cases involving offenses  
10 committed by one spouse against another, the court is  
11 further empowered to impose such conditions and limitations  
12 as the court may order to effect the reconciliation and  
13 rehabilitation of the parties, including, but not limited  
14 to, treatment and counseling for both spouses and payment by  
15 the defendant spouse for crisis shelter care for the  
16 complaining spouse .

17

#

1 Immunity D 12/2/77 LBH

2 A BILL to amend the Code of Virginia by adding a section  
3 numbered 55-36.1, relating to spousal tort immunity for  
4 assault and battery.

5

6 Be it enacted by the General Assembly of Virginia:

7 1. That the Code of Virginia is amended by adding a section  
8 numbered 55-36.1 as follows:

9 § 55-36.1. Certain suits by one spouse against  
10 another.--A married person may sue his or her spouse in tort  
11 for an assault or battery committed against the person as  
12 fully as if the parties were unmarried.

13

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Resolution to be Drafted Incorporating  
Recommendation #8

1 Three hundred sixty-nine D 12/15/77 MAJ T 12/27/77 rp

2 HOUSE JOINT RESOLUTION NO.....

3 Requesting the Criminal Justice Services Commission to  
4 require the training of law-enforcement officers in the  
5 management and resolution of domestic violence.

6

7 WHEREAS, statistics indicate that there is a high  
8 incidence of domestic violence among families throughout the  
9 State and the nation; and

10 WHEREAS, law-enforcement officers are generally called  
11 to the scene of a domestic crisis when the violence  
12 escalates to the point of grievous bodily harm or when it  
13 becomes a serious disturbance of the peace; and

14 WHEREAS, during nineteen hundred seventy-six over  
15 fifteen thousand law-enforcement officers were assaulted and  
16 twenty were killed in the United States; and

17 WHEREAS, frequently, assaults on law-enforcement  
18 officers occur when the officer attempts to mediate a  
19 volatile domestic quarrel which the officer's training has  
20 not prepared him to handle; and

21 WHEREAS, law-enforcement officers need specialized  
22 training in the counseling and handling of family members  
23 involved in domestic violence and the training of  
24 law-enforcement officers in many areas of the State does not  
25 include instruction in such skills; now, therefore, be it

26 RESOLVED by the House of Delegates, the Senate

1 concurring, That the Criminal Justice Officers Training and  
2 Standards Commission, pursuant to its power in § 9-109 of  
3 the Code of Virginia to "(3) Establish compulsory minimum  
4 curriculum requirements for in-service and advanced courses  
5 and programs for schools operated by or for the State or any  
6 political subdivisions thereof for the specific purpose of  
7 training law-enforcement officers" is hereby requested to  
8 require the proper training of law-enforcement officers in  
9 skills to prepare them to competently manage and resolve  
10 incidences of domestic violence.

11

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