



Staff Memorandum

HOUSE OF DELEGATES Agenda Item #13

To supplement the other materials in your package, attached is (a) a resolution from the Family Law Section supporting the report of the NYSBA/WBASNY Domestic Violence Initiative, (b) a memorandum from the Committee on Women in the Law supporting the report, and (c) a memorandum from the Erie County Bar Association indicating its support.

RESOLUTION ON THE DOMESTIC VIOLENCE INITIATIVE FAMILY LAW SECTION

January 8, 2018

HISTORY OF THE DOMESTIC VIOLENCE INITIATIVE

During the summer of 2016, the then-Presidents of the New York State Bar Association (NYSBA) and the Women's Bar Association of the State of New York (WBASNY) created a joint NYSBA/WBASNY Domestic Violence Initiative (the Initiative) in an effort to identify ways the bar and the judicial system might better address domestic violence and enhance access to legal services for victims of such violence in our state.

The work of the Initiative concluded with the publication of a Final Report in November, 2017. As reflected in the Final Report, the mission of the Initiative was to:

- Help educate attorneys around the state about domestic violence and the need for pro bono representation of victims, and help ensure that pro bono and civil legal services attorneys have access to the comprehensive training and education they need to provide effective legal services to address the broad range of issues faced by individuals and families affected by domestic violence, including those from diverse and traditionally underserved communities; and
- Expand the existing pool of volunteer attorneys and opportunities for volunteer service to victims of domestic violence, including by seeking to collaborate with bar associations throughout the state to help address the needs of domestic violence victims in their jurisdictions, partner with local domestic violence service providers to jointly educate their legal community and foster the recruitment of volunteers and the provision of pro bono legal services to victims through existing or newly-developed pro bono programs; and
- Examine and make recommendations concerning pending or proposed legislation that seeks to protect domestic violence victims.

With the publication of the Final Report, the Initiative concluded its work. As part of the Final Report, it was recommended that both the NYSBA and the WBASNY commit themselves to achieving the following goals:

- *Help ensure that pro bono and civil legal services attorneys have access to the comprehensive training and education they need to provide competent and effective services for individuals and families impacted by domestic violence, including those from diverse and traditionally underserved communities.*
- *Raise awareness of domestic violence issues, including among attorneys who do not*

regularly represent domestic violence victims, and expand the existing pool of volunteer attorneys through education and outreach.

- *Develop model pro bono programs that can be implemented in underserved communities in New York State.*
- *Encourage bar associations throughout the state to make meeting the needs of victims of domestic violence in their jurisdictions a priority, to partner with local domestic violence service providers and together educate their legal community about domestic violence and the need for pro bono representation of victims, and to foster the recruitment of volunteers and the provision of pro bono legal services to victims through existing or newly-developed pro bono programs.*
- *Identify proposed legislation that would help protect and provide access to justice for survivors of domestic violence and prepare supporting memoranda that NYSBA, WBASNY and other interested groups can use to advocate for the adoption of that legislation by the New York State legislature.*

The Initiative's Final Report includes explicit recommendations for the achievement of each of those goals.

The Family Law Section enthusiastically and wholeheartedly approves of the Final Report of the NYSBA/WBASNY Domestic Violence Initiative, and the Recommendations and Goals identified and set forth in the Final Report. The Family Law Section has established a Domestic Violence Committee and is committed to achieving the goals identified by the Domestic Violence Initiative.

Memorandum prepared by:
Chair of the Section:

Erik Kristensen, Esq.
Mitchell Y. Cohen, Esq.



To: The Executive Committee and House of Delegates, New York State Bar Association

From: Legislative Affairs Subcommittee, Committee on Women in the Law, New York State Bar Association

Re: Memorandum in Support

Date: January 11, 2018

The Committee on Women in the Law's (CWIL's) Legislative Affairs Subcommittee **supports** the "New York State Bar Association and Women's Bar Association of the State of New York Domestic Violence Initiative's Final Report (November 2017)" to provide greater access to legal services to victims of domestic violence in New York State.

Domestic violence is a pervasive societal problem that has reached epidemic levels in New York State. Domestic violence is described as ongoing, purposeful behavior by an individual aimed at exerting control over a current or former intimate partner, and it can be physical, psychological, sexual or economic in nature. Domestic violence touches the lives of individuals in every segment of the population, with no distinction based on race, ethnicity, sexual orientation, age, ability or socioeconomic status. Domestic violence is an acutely dangerous problem, and individuals in abusive relationships are at increased risk of homicide at the hands of their intimate partner. Many individuals in abusive relationships rely on the legal system to help them break the cycle of violence. Access to legal assistance is documented in studies as one of the most effective ways to disrupt domestic violence. Unfortunately, the overwhelming need on the part of abuse victims and their children cannot be met by the existing available resources.¹

The Report recommends and outlines three key areas to address these deficiencies, and includes proposals to enhance legal services to domestic violence victims, including: education, pro bono efforts and legislation.

The education element includes both educating attorneys who currently provide services to domestic violence victims and increasing awareness of domestic violence issues among attorneys generally. To accomplish this, the Task Force recommends (1) that a roster of expert speakers is maintained and displayed on NYSB's and WBASNY's websites; (2) incorporating domestic violence CLE training in practice areas beyond the NYSBA Family Law Section and the WBASNY Domestic Violence Committee; and (3) incorporating the dynamics of domestic violence as a topic in criminal and family law programs in Bridge-the-Gap CLEs.

Education training and resources are crucial elements in supporting attorneys' effective representation of domestic violence clients. The CWIL's Subcommittee endorses the Report's recommendations concerning CLE education and training programs in other practices and in

¹ "New York State Bar Association and Women's Bar Association of the State of New York Domestic Violence Initiative 's Final Report" (Released November 2017).

junior years of practice, including on-demand video resources, to properly train and prepare attorneys to recognize and meet the representation challenges unique to domestic violence victims.

The pro bono component, which we also strongly support, focuses on increasing the number of available pro bono attorneys engaging in this work both individually and through the collaborative work of the bar associations. As outlined in the Report, there are vast areas in New York State where there are few attorneys to represent domestic violence victims. This gap in legal services puts women and children in jeopardy because they do not have representation to help them when they are most vulnerable. To address this gap, the Subcommittee endorses the four recommendations in the Report including: (1) the creation of a Domestic Violence Advisor Panel, establishing a Pro Bono Attorney list process, supporting the dissemination and use of the Legal Clinic-in-a-Toolkit and CLE for Pro Bono Toolkit; (2) publicizing the available Toolkits and resources, particularly in counties with a gap in legal resources supporting domestic violence victims; (3) increasing pro bono legal resources to victims of domestic violence; and (4) exploring the opportunities to use technology to link domestic violence victims needing legal support in one part of New York State with pro bono and legal services attorneys willing and able to provide this support in another part of the state.

The legislative initiatives mentioned in the Report were previously endorsed by this Subcommittee, with minor modifications suggested to some of the bills. (See Memorandum in Support, dated March 21, 2017). While passage of these bills was not completed by the end of the legislative session in 2017, the Subcommittee remains supportive of these efforts and is hopeful that the three pieces of legislation currently being advocated for are sent to the Governor's desk this year.

Based on the foregoing, the Committee on Women in the Law's Legislative Affairs Subcommittee **supports** the "New York State Bar Association and Women's Bar Association of the State of New York Domestic Violence Initiative's Final Report (November 2017)" and **strongly urges** NYSBA's Executive Committee and House of Delegates to adopt the Report and the recommendations made therein.

Submitted by:

Chair of the Committee on Women in the Law: Susan L. Harper

Co-Chairs of the Legislative Affairs Subcommittee: Michal Ovadia and Sarah Simpson

Subcommittee Members: Denise Bricker, Marilyn Flood, Pamela Dale Bass, Carrie Goldberg, and Deirdre Lidell Hay



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To: NYSBA/WBASNY Domestic Violence Initiative
Via email to reportsgroup@nysba.org

From: Melinda G. Disare, President, Bar Association of Erie County

Date: 01/11/2018

Re: NYSBA & WBASNY Domestic Violence Initiative

To Whom it May Concern,

As its meeting on January 9, 2018, the Board of Directors of the Bar Association of Erie County voted unanimously to support the recommendations set forth in the NYSBA & WBASNY Domestic Violence Initiative Report.

If you have any questions, feel free to contact me.

Sincerely,

Melinda G. Disare, President
Bar Association of Erie County