

**VIOLENCE AGAINST WOMEN:
AN HISTORICAL FOUNDATION FOR
TODAY'S REFORMS**

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Violence Against Women Reforms

- Agenda
 - Decade by Decade Reforms
 - Areas of Reform
 - Criminal Justice Reforms
 - Civil Justice Reforms
 - Funding for Domestic Violence Programs and Rape Crisis Centers
 - Specific History of Protective Order Reforms Leading to 2015 HB 8

The 1970s

- Local communities began to create grassroots victim services for rape and DV victims
 - 1971 Creation of the Lexington Rape Crisis Center (state's first rape crisis center)
 - 1977 Creation of YWCA Spouse Abuse Center in Louisville (state's first "spouse abuse center")
- Not yet any statewide advocacy groups

The 1970s

- 1976 – Rape Shield Law

- *Smith v. Commonwealth, 1978*

- “Prior to the 1976 session, the justice system operated under the premise that “evidence of the victim’s prior sexual conduct was admissible to support the proposition that if she consented to have relations with one or more other persons then she consented to the relations with the defendant” (*Smith v. Commonwealth, 1978*).

The 1970s

- 1976 – Uniform Reporting Form for Law Enforcement (JC-3)
- 1978 - 24-Hour Forensic Rape Exams

The 1980s

- Decade best known for statewide expansion of the state's safety net for rape victims and battered women
- Amend arrest provisions of statute to allow warrantless arrest in DV cases (1980 HB 86);
- Domestic Violence and Abuse Act (1984 SB 17)
- Creation of Kentucky Domestic Violence Association in 1981
 - Name changed to Kentucky Coalition Against Domestic Violence in 2015

The 1980s

- Requirement that the state pay for forensic rape examinations (1984 HB 196)
- Creation of sexual assault counselor privilege (1986 HB 263)
- Removal of “earnest resistance” KRS 510 (1988 HB 288)

The 1980s – DV Funding

- 1982 General Assembly began state funding for DV Programs
- Marriage license fee to support domestic violence programs (1982 HB 141)

The 1980s – RCC Funding

- Move of PHHS Block Grant funds to Department for Mental Health
- 1986 - “Program Development” funds for Rape Crisis Centers
- 2000 - “Primary service provider” language

The Decade of the 1990s

- Marital Rape (1990 HB 38)
 - In 1976, marital rape legal in every state; by 1993 every state had criminalized it (in at least some circumstances)
 - Kentucky
 - 1986 legislation
 - 1988 attempt
 - 1990 success – 44th state

The 1990s

- 1990 the Kentucky Rape Crisis Center Association was created
 - Name changed to Kentucky Association for Sexual Assault Programs

The 1990s

- *1992 - Attorney General's Task Force on Domestic Violence Crime (AG Fred Cowan)*
 - DV as a factor in custody decisions (1992 SB 80)
 - Expansion of “imminent danger” as applied to domestic violence cases (1992 HB 256)
 - Expansion of Domestic Violence and Abuse Act (1992 HB 115)
 - Stalking (1992 HB 445)

The 1990s

- Rape with a Foreign Object (1992 SB 160) (*KY Coalition Against Rape & Sexual Assault*)
- Victim Advocates in Statute (1994 HB 95) (*Attorney General's Task Force on Child Sexual Abuse*)
- 1994 - Creation of Sexual Offender Registry (*Rape Coalition*)

The 1990s

- Legislative Task Force on Domestic Violence
 - Full Faith and Credit for Protective Orders (1996 SB 105)
 - Mandatory Training for Health and Mental Health Professionals (1996 HB 315)
 - Law Enforcement Arrest Policy (1992)

The 1990s

- 1996 - Legislative Task Force on Domestic Violence
 - Omnibus DV Crime Bill (1996 HB 310)
 - Penalty enhancement for third and subsequent fourth degree assaults when they are committed against a family members or members of an unmarried couple
 - Special Conditions of Bond
 - Creation of Victim Information and Notification Everyday (1996 SB 108)

The Decade of the 2000s+

- Creation of the Statewide Sexual Assault Nurse Examiner Program (1996 HB 495)
- Omnibus Sexual Offense Bill (2000 SB 263)
 - date rape drug (GHB) - Schedule One drug
 - Prohibition on shock probation for sex offenders
 - Marital Rape
 - Repealed 1-year reporting
 - Repealed custody provisions
 - Perjury remains
 - Expungement remains

The 2000s+

- Civil Right of Action for Stalking Victims (2000 SB 116)
- Notification to Victims Upon Attempt to Purchase Firearm (2002 HB 89)
- Creation of Stalking Restraining Orders (2002 SB 89)

The 2000s+

- Expansion of Rape Shield Law to Include Civil Cases (2003 HB 263)
- Statutory Prohibition on Polygraphing Rape Victims (2008 SB 151) (KASP bill)
- Increased Penalties for Rape of Incarcerated Persons (2010 SB 17) (KASP bill)
- Amanda's Law (2010 HB 1)

Reforms Addressing Civil Protection

- All jurisdictions have now enacted some form of civil protective orders; no federally standardized order
- 1994 Federal Violence Against Women Act provided full faith and credit for orders if they meet basic qualifications, such as:
 - Issuing court has jurisdiction
 - Respondent has reasonable notice and opportunity to be heard

Kentucky DVAA Reforms

- 1984 enacting legislation
- Over the years we have amended law to strengthen
 - 1992 – DV file in LINK
 - 1992 – 24-hour availability
 - 1996 – extended from 1 – 3 years
 - 1996 – FFC added

Kentucky DVAA Reforms

- Expanding who can get protective orders:
 - 1988 added ex-spouses
 - 1992 added “members of an unmarried couple” (living together; formerly lived together; have child in common)
 - 2010 – removed “persons related by consanguinity or affinity in the 2nd degree” (expanded to include grandparents and others in household if child is alleged victim)

Why Expand Protective Orders?

- As early as mid-80's, states began to amend statutes to define "intimate partner" broadly enough to include dating partners
 - 46 states by 2015 (DV statutes or peace bonds)
- States also began to expand protection to non-intimates
 - 35 states and DC have stalking protective orders
 - 27 states have sexual assault protective orders

Evolution of Protective Orders to Include Dating Violence, Sx Assault, Stalking

– 2015 HB 8

- Amendments to KRS 403 to add stalking to the definition of domestic violence
- Creation of new statute KRS 456 to provide for interpersonal protective orders
 - Dating violence cases
 - Sexual assault cases
 - Stalking cases