

THE SPLINTERED MIND AND PATH TO A HEALED SOCIETY: * THE STATE OF INDIANA SHOULD MANDATE COGNITIVE BEHAVIORAL THERAPY FOR DOMESTIC VIOLENCE BATTERERS

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I. INTRODUCTION

Domestic violence is a continuous pattern where one partner in an intimate relationship tries to assert control and dominance over the other partner.¹ Unfortunately, although domestic violence continues to put victims, children, and our society in danger; current intervention and rehabilitation efforts are not effective at mitigating such danger. This Note discusses the effectiveness of the current batterer intervention methods, specifically the Duluth Model, used by the state of Indiana and surrounding states to reduce domestic violence incidences and recidivism rates. This Note also highlights the reasons why Indiana should mandate domestic violence batterers to engage in Cognitive Behavioral Therapy (“CBT”) and reassess the effectiveness and use of the Duluth Model. While CBT contains different models that can be tailored to each person based on their history and experiences, the Duluth Model uses a one-size-fits-all curriculum in an attempt to solve a deeply rooted issue by criticizing and shaming the act, and the batterer. This Note further discusses the impact of Covid-19 on domestic violence rates and recidivism, and the urgency of adopting a more uniform, effective mode.

II. THE ISSUE

Many states across America use intervention methods to support victims and children of domestic violence. There are also intervention methods that aim to rehabilitate batterers. However, despite all the efforts taken by states to combat domestic violence, current intervention methods are not effective at decreasing domestic violence rates and domestic violence recidivism. In 2018, twenty percent of all violent crimes were domestic violence crimes.² Also, in 2017, sixty percent of offenders recidivated after being sentenced for a domestic violence

* The title of this Note is inspired by the idea that a batterer’s mind is not unfixable and is merely splintered. Splinters cause no further harm once removed and, thus, there is hope for positive change towards ending domestic violence.

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1. *Domestic Violence – What Exactly Is It?*, DOMESTIC VIOLENCE, <https://domesticviolence.org/definition/> [https://perma.cc/TG8C-E2KG] (last visited Nov. 8, 2021).

2. *State-by-State Statistics on Domestic Violence*, NAT’L COAL. AGAINST DOMESTIC VIOLENCE, <https://ncadv.org/state-by-state> [https://perma.cc/E5WN-FLVY] (last visited Oct. 15, 2021).

offense.³ Studies suggest that there is significant uncertainty in the efficacy of Batterer Intervention Programs (“BIPs”).⁴ Further, evidence suggests a large percentage of perpetrators of domestic violence reoffend, despite participation in batterer intervention programs.⁵

This Note includes three parts. The first part discusses the issue of domestic violence, including the history of domestic violence, statistics of domestic violence incidents, the issue of failure to report domestic violence abuse, risk factors contributing to domestic violence, the role of healthcare providers in identifying domestic violence, the effects of domestic violence on children, and the domestic violence cycle. The second part will discuss how the law has viewed and treated domestic violence over the years, domestic violence recidivism rates, the different intervention programs used by different states, specifically, background information and research on the Duluth Model and CBT, and the impact of Covid-19 on domestic violence incident and recidivism rates. The final part of this Note examines and analyzes the differences between the Duluth Model and CBT. It also highlights why CBT is the more effective method in ending the domestic violence cycle and reducing recidivism, the future of CBT in treating domestic violence batterers, a hypothetical statute adopting CBT as a uniform intervention method, and the advantages and disadvantages to using CBT.

III. BACKGROUND

Domestic violence includes the acts of physical abuse, sexual abuse, emotional abuse, and economic abuse.⁶ In the United States, 20 people per minute are physically abused by an intimate partner.⁷ This equals 10 million abused men and women per year.⁸ Almost one out of five murder victims in the United States were killed by an intimate partner.⁹ Approximately 3.2 million children in the United States each year witness violence against their mother or female

3. *Domestic Violence in Indiana: 2017 Offender Overview*, IND. CRIM. JUST. INST. (Mar. 2020), https://secure.in.gov/cji/grant-opportunities/files/Domestic-Violence-in-Indiana-2017-Offender-Overview_March-2020.pdf [<https://perma.cc/5Q42-3ZWR>].

4. Maura A. Shader-Morrissey, *Batterer Intervention Program Facilitators’ Perceptions Of The Efficacy Of Current Behavior Intervention Models*, SMITH COLL. (2013), <https://scholarworks.smith.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1683&context=theses> [<https://perma.cc/XRF7-ZNQY>].

5. *Id.*

6. *Domestic Violence – What Exactly Is It?*, *supra* note 1.

7. *Domestic Violence National Statistics*, NAT’L COAL. AGAINST DOMESTIC VIOLENCE, <https://www.ncadv.org/statistics> [<https://perma.cc/DB5G-TUKA>] (last visited Oct. 17, 2021).

8. *Id.*

9. *Homicide and Injury from Domestic Violence*, DOMESTIC SHELTERS (Jan 07, 2015), <https://www.domesticshelters.org/articles/statistics/homicide-and-injury-from-domestic-violence> [<https://perma.cc/E3XS-AACM>].

caretaker.¹⁰ According to the National Center on Family Homelessness, 50% of homeless women reported domestic violence being the main reason for their homelessness.¹¹

Unfortunately, despite the ever-increasing rates of domestic violence incidents, many incidents go unreported. Victims are often afraid to report their violent partner out of fear of losing their home, kids, or even death.¹² Abusers often manipulate victims into believing that no one will believe them, and this leaves the victims in fear of serious injury or death if they retaliate against their partner and receive no help.¹³ Further, domestic violence does not always end when the victim escapes or attempts to end the relationship.¹⁴ Victims are in the most danger in the relationship immediately after trying to escape or seek help.¹⁵ In fact, one of every five victims who obtain a restraining order against their abusers are murdered within two days, and one of every three victims are murdered within the first month after obtaining the order.¹⁶

The Duluth Model is a batterer intervention program that has been around for over 40 years and is used by many states to address domestic violence.¹⁷ However, studies have shown that programs that use Duluth-like models had no effect on recidivism.¹⁸ On the other hand, research has shown that programs that used different methods reduced domestic violence recidivism by 33 percent on average.¹⁹ The State of Indiana uses a Duluth-like, curriculum-based program that refrains from focusing on the participant's individual assessment or treatment plan.²⁰

10. Melissa Stiles, *Witnessing Domestic Violence: The Effect on Children* (Dec. 1, 2002), 66 AM. FAMILY PHYSICIAN 11, <https://www.aafp.org/afp/2002/1201/p2052.html#:~:text=Potential%20Effects%20in%20Children%20Who%20Witness%20Violence%2A%20,of%20physical%20injury%20%2012%20more%20rows%20> [https://perma.cc/AW9V-M2MD].

11. *Domestic Violence and Homelessness*, NAT'L COAL. FOR THE HOMELESS, <http://www.nationalhomeless.org/publications/facts/domestic.html> [https://perma.cc/96ZS-N49T] (last visited Sept. 17, 2022).

12. *Why Don't They Report? Domestic Violence*, S. ILL. U. MED. (Aug. 7, 2017), <https://www.siumed.org/pr/highlights/why-don't-they-report-domestic-violence.html> [https://perma.cc/3XMW-9Z79].

13. *Id.*

14. *Learn More*, NAT'L COAL. AGAINST DOMESTIC VIOLENCE, <https://ncadv.org/learn-more> [https://perma.cc/JJ3S-V36Z] (last visited Nov. 8, 2021).

15. *Id.*

16. *Id.*

17. Marna Miller et al., *What Works to Reduce Recidivism by Domestic Violence Offenders?*, WASH. STAT. INST. PUB. POL'Y. 1, 2 (Jan. 2013), https://www.wsipp.wa.gov/ReportFile/1119/Wsipp_What-Works-to-Reduce-Recidivism-by-Domestic-Violence-Offenders_Full-Report.pdf [https://perma.cc/5XAX-UDTS].

18. *Id.* at 6.

19. *Id.*

20. *Domestic Violence Batterers Intervention Services*, IND. DEPT. CHILD. SERV.,

According to the Indiana Coalition Against Domestic Violence, a Batterers' Intervention Program (BIP) is an "education-based program that makes victim safety its primary priority, holds offenders accountable, and promotes a coordinated community response to domestic violence."²¹ While this program is not called the Duluth Model, its characteristics are very similar. Indiana's BIP does not take a person's history into consideration²² and is not science based.²³ Finally, despite the efforts taken by the State of Indiana to end domestic violence, in 2020, there was an increase of 181 percent in fatalities over the previous year which were caused by domestic violence incidents.²⁴ This raises the questions of what can be done to effectively rehabilitate batterers, treat victims, and reduce the domestic violence recidivism rate.

A. Domestic Violence

1. History of Domestic Violence

The way domestic violence is viewed changed throughout the years. A man's right to use violence on his partner to manage the household was legally protected and socially condoned until the late nineteenth century.²⁵ Because domestic violence was legally and socially accepted, early efforts at legal reform were limited.²⁶ The main focus was to preserve the family structure rather than protecting the victims of violence.²⁷ In 1910, the Supreme Court in *Thompson v. Thompson* held that "relation between husband and wife was not so far modified as to give the wife a right of action to recover damages from her husband for an assault and battery committed by him upon her person. . ."²⁸

However, the feminist movement of the 1960s and 1970s drew attention to the problem of domestic violence.²⁹ As a result, in 1970, the United States

<https://www.in.gov/dcs/files/14-Batterers-Intervention.pdf> [<https://perma.cc/XZ3P-XKJE>] (last visited Jan. 17, 2021).

21. *Batterers' Intervention Programs*, IND. COAL. AGAINST DOMESTIC VIOLENCE, <https://icadvinc.org/batterers-intervention-programs/> [<https://perma.cc/ELK6-KPNB>] (last visited Oct. 19, 2021).

22. *Id.*

23. *Id.*

24. *Domestic Violence Fatality Review Report 2020-21*, IND. COAL. AGAINST DOMESTIC VIOLENCE (2021), https://icadvinc.org/wpcontent/uploads/2021/10/fatalityinfographic_final.pdf [<https://perma.cc/3D9T-RAU3>].

25. *New State and Federal Responses to Domestic Violence*, 106 HARV. L. REV. 1528, 1530-31 (1993).

26. *Id.* at 1530.

27. *Id.*

28. *Thompson v. Thompson*, 218 U.S. 611, 615 (1910).

29. Amanda Dekki, *Punishment or Rehabilitation? The Case for State-Mandated Guidelines for Batterer Intervention Programs in Domestic Violence Cases*, 18 ST. JOHN'S J. LEGAL COMMENT. 549, 554 (2004).

government began making efforts to end domestic violence by assisting individual victims with legal aid, counseling, job opportunities, and emergency shelters.³⁰ In the 1980s, more changes were taking effect regarding the legal response to domestic violence, including specialized domestic violence courts, batterer intervention programs, stalking statutes, and better arrest policies.³¹ Further, programs focusing on aiding the victims mentally, emotionally, and financially were being implemented.³²

Finally, in 1989, in *Catlett v. Catlett*, the court decided that a \$20,000 award of punitive damages was appropriate for a wife who provided sufficient evidence that her injuries resulted from assault, battery, and false imprisonment by her husband.³³ The court's decision in *Catlett* showed that courts began recognizing domestic violence as a crime and not a private family matter.

By 2010, courts were taking serious actions to protect domestic violence victims. For example, in *Wolt v. Wolt*, the Supreme Court of North Dakota issued a protection order restraining a former husband from contact with the former wife for two years.³⁴ *Wolt* was a major milestone for domestic violence reform because there, the court issued a protective order against a batterer solely for inflicting fear and not for actual physical harm. The court based its decision on the evidence presented, which showed that the former husband inflicted fear of imminent physical harm upon the former wife.³⁵ The law continues to change to provide more protection to domestic violence victims.

2. *The Cycle of Domestic Violence*

To recognize the importance of effective rehabilitation for domestic violence, one must first understand the components that make up the domestic violence cycle. Breaking the cycle of domestic violence and abuse is difficult and may seem impossible.³⁶ The domestic abuse cycle begins with the tension-building phase. This phase is when abusers' anger begins to build up.³⁷ During the tension-building phase, the abuser often threatens the victim, and the victim becomes compliant and does everything to please and not upset the abuser.³⁸

The second step in the cycle is the abusive incident, this incident is not

30. *Id.*

31. *Id.*

32. *Id.*

33. *Catlett v. Catlett*, 388 S.E.2d 14, 15 (Ga. Ct. App. 1989).

34. *Wolt v. Wolt*, 778 N.W.2d 786, 788 (N.D. 2010).

35. *Id.* at 790.

36. Grace J. Humbles, *Breaking the Cycle*, HEALTHSCOPE, <https://healthscopemag.com/health-scope/breaking-the-cycle/#:~:text=Breaking%20the%20cycle%20of%20abuse%20is%20extremely%20difficult,the%20powerful%20control%20your%20abuser%20has%20over%20you> [https://perma.cc/FVE5-X7XG] (last visited Nov. 8, 2021).

37. *Id.*

38. *Id.*

always an incident of physical violence. Other forms of abuse include stalking, neglect, psychological, emotional, economical, and sexual abuse.³⁹ The incident occurs when the abuser can no longer control his anger and lashes out on the victim.⁴⁰ This releases anger and temporarily reduces the tension.⁴¹ The last step in the cycle is the honeymoon or calm phase. This phase occurs when the abuser feels guilty for his actions and offers the victim an apology, gifts, and promises to change.⁴²

Unfortunately, once the honeymoon phase is over, the tension-building phase begins again, and the promises the abuser made to the victim are broken, causing the cycle to repeat itself.⁴³ This cycle repetition leaves the victim trapped in a cycle of abuse, remorse, forgiveness, and continued abuse.⁴⁴ This cycle not only puts the victim in danger, but children in such environments are also affected by witnessing the abuse and its toxic present.⁴⁵ Despite the promises made by the abuser to the victim that it “will never happen again,” in most cases, the abuser will not change, and the only way to end the abuse is for the victim to end the relationship.⁴⁶ The most dangerous time in an abusive relationship for the victim is when they try to leave their abuser.⁴⁷ Domestic violence cycles do not end with specific relationships and are likely to continue with the children who grow up in abusive households, as they have a higher chance of becoming abusers themselves.⁴⁸ In order to protect children and their future, an effective intervention method must be implemented immediately.

3. Identification of Domestic Violence

The health care system plays a major role in identifying domestic violence.⁴⁹ Because nearly all young children and teens are seen in a health care setting, these settings provide an opportunity for health care providers to identify mothers and children living with a violent partner or parent.⁵⁰ According to Betsy McAlister Groves, a 2001 study in North Carolina found that only 23 percent of

39. Jennifer Focht et al., *The Cycle of Domestic Violence*, NAT’L CENTER FOR HEALTH RESEARCH, <https://www.center4research.org/the-cycle-of-domestic-violence/> [https://perma.cc/Z9WR-DZ6G] (last visited Mar. 14, 2022).

40. *Id.*

41. Humbles, *supra* note 36.

42. *Id.*

43. Focht et al., *supra* note 39.

44. Humbles, *supra* note 36.

45. *Id.*

46. Focht et al., *supra* note 39.

47. *Id.*

48. Humbles, *supra* note 36.

49. Becky McAlister Groves et al., *Identifying and Responding to Domestic Violence*, FAMILY VIOLENCE PREVENTION FUND 1, 1 (Aug. 2004), <http://www.futureswithoutviolence.org/userfiles/file/HealthCare/Pediatric.pdf> [https://perma.cc/QJF6-HHMK].

50. *Id.*

women injured by a partner shortly after pregnancy received treatment for their injuries. However, almost all of these women used health care services for their infants, indicating that child health settings are potentially important for identifying intimate partner violence.⁵¹

When domestic violence is identified, the health care providers should take several steps: first, the victim should be assured that confidentiality will be maintained.⁵² The health care provider should avoid expressing outrage towards the perpetrator, make the victim feel responsible for the abuse, or tell the victim to leave the relationship.⁵³ If the mother discloses abuse during a well-child visit, the disclosure should not be in the child's medical record, since the perpetrator may have access to those records.⁵⁴ Victims of abuse have reported that one of the most important parts in their interaction with their health care provider is being listened to about the abuse.⁵⁵ Moreover, the health care provider can support a victim denying abuse by laying the groundwork for the possibility of future disclosure or discussion of the issue.⁵⁶

4. Factors Contributing to Domestic Violence

While children who grow up in violent environments are at a greater risk of becoming violent adults,⁵⁷ this is not the only cause of domestic violence. Several individual, relational, community, and societal factors contribute to the risk of becoming violent in a relationship.⁵⁸ Other factors include ones' cultural beliefs.⁵⁹ For example, cultures that support traditional gender norms and gender inequality, and the idea that women should stay home and be submissive, while men should make the decisions and provide for the family,⁶⁰ encourage men to be violent towards their partner if the partner is not submissive.⁶¹ Those cultures

51. *Id.* at 7.

52. Melissa Stiles, *Witnessing Domestic Violence: The Effect on Children*, 66 AM. FAMILY PHYSICIAN 11, 12 (Dec. 1, 2002), <https://www.aafp.org/afp/2002/1201/p2052.html#:~:text=Potential%20Effects%20in%20Children%20Who%20Witness%20Violence%2A%20,of%20physical%20injury%20%2012%20more%20rows%20> [<https://perma.cc/AW9V-M2MD>].

53. *Id.* at 6.

54. *Id.*

55. Groves et al., *supra* note 49.

56. *Id.*

57. *Domestic Violence National Statistics*, NAT'L COAL. AGAINST DOMESTIC VIOLENCE, <https://www.ncadv.org/statistics> [<https://perma.cc/DB5G-TUKA>] (last visited Feb. 19, 2022).

58. *Risk Factors for Intimate Partner Violence Perpetration*, CTR. FOR DISEASE CONTROL PREVENTION (Oct. 9, 2020), <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/riskprotectivefactors.html> [<https://perma.cc/Q9BQ-RUA4>].

59. *Id.*

60. *Id.*

61. *Contributing Factors*, RUTGERS OFF. VIOLENCE PREVENTION AND VICTIM ASSISTANCE, <http://vpva.rutgers.edu/contributing-factors/> [<https://perma.cc/BVC2-RKBV>] (last visited Nov. 8,

encourage the idea that “women are not equal to men.”⁶² Further, boys who grow up with the mentality that they are more superior solely because of their gender tend to become violent towards their female partner when they feel that their partner is not obedient enough, and their superiority as males is being compromised.⁶³

Furthermore, individual risk factors for domestic violence perpetration include mental illnesses, substance abuse, financial stress, and low IQ or academic achievements.⁶⁴ Moreover, relational risk factors for domestic violence perpetration include witnessing domestic violence between parents as a child, experiencing poor parenting as a child, and history of experiencing physical discipline as a child.⁶⁵ Community and societal risk factors include poverty and cultural norms that support aggressive behavior towards others.⁶⁶ Many families that experience domestic violence struggle with multiple other problems, including poverty, substance abuse, and exposure to other forms of violence.⁶⁷

It is important to note that while there are many factors that can increase the probability of domestic violence, those factors are not the sole cause for domestic violence. Because domestic violence is a learned behavior,⁶⁸ and all learned behaviors can be replaced by different behaviors, domestic violence and anger can be controlled and replaced by positive behaviors.⁶⁹ This can be accomplished by learning coping skills, empathy, and how to deal with emotions and conflict in a healthy manner.⁷⁰

5. *Effects of Domestic Violence on Children*

Approximately 3.2 million American children witness domestic violence incidents annually.⁷¹ Being a victim of physical or psychological abuse is consistently one of the strongest predictors of becoming a domestic violence

2021).

62. Toby D. Goldsmith, *What Causes Domestic Violence?*, PSYCHCENTRAL (Sept. 20, 2021), <https://psychcentral.com/lib/what-causes-domestic-violence#1> [https://perma.cc/5GC6-KX2A].

63. See Melissa Kathleen Oliver, *Domestic Violence: Factors, Perpetuation, Cultural Differences & Treatment*, CAL. POLYTECHNIC STATE U., <https://digitalcommons.calpoly.edu/cgi/viewcontent.cgi?article=1028&context=psycdsp> [https://perma.cc/BD8N-YUX9].

64. *Risk Factors For Intimate Partner Violence Perpetration*, *supra* note 58.

65. *Id.*

66. *Id.*

67. Lucy Salcido Carter et al., *Domestic Violence and Children: Analysis and Recommendations*, 9 THE FUTURE OF CHILD. 4 (1999).

68. Linda Lyons King, *Domestic Violence is Learned Behavior*, GOERIE (Sept. 20, 2014), <https://www.goerie.com/article/20140920/NEWS/610192671> [https://perma.cc/6RMR-DEPG].

69. Jim Johnston, *Can You Unlearn a Behavior?*, TALKING ABOUT BEHAVIOR (Aug. 4, 2016), <https://talkingaboutbehavior.com/can-you-unlearn-a-behavior/> [https://perma.cc/9CKW-YATX].

70. *Id.*

71. Stiles, *supra* note 52.

perpetrator.⁷² Some children do not witness domestic violence, yet still become violent adults.⁷³ This often occurs because many of these children undergo direct abuse.⁷⁴ According to the International Society for Traumatic Stress Studies, “the word trauma is used to describe negative events that are emotionally painful and that overwhelm a person’s ability to cope.”⁷⁵

While the most known form of trauma stems from physical or sexual abuse, there are other forms of abuse that are less often discussed. For example, individuals who grow up with overly controlling, narcissistic or emotionally immature parents are often victims of childhood trauma. Those types of parents tend to often psychologically abuse their children.⁷⁶ “Psychological abuse includes a range of non-accidental actions that create fear in a child or that intend to injure his or her dignity and psychological integrity.”⁷⁷

Individuals who grow up in homes where their emotions are not acknowledged and validated, and are not heard, seen, or understood by their parents tend to have a negative self-image, which contributes to becoming a violent adult.⁷⁸ This occurs due to their lack of coping skills, emotional intelligence and ability to effectively communicate their feelings and emotions to their partner and to others.⁷⁹ An adult who does not possess the basic skills to cope and communicate can become angry and lash out.⁸⁰ Also, growing up in an abusive environment can create resentment, which may manifest itself onto one’s partner.⁸¹

Moreover, children who are exposed to domestic violence in the home experience emotional, mental, social, and developmental problems.⁸² Children

72. *Risk Factors For Intimate Partner Violence Perpetration*, *supra* note 58.

73. *Id.*

74. Stiles, *supra* note 52.

75. *Childhood Trauma*, INT’L SOC’Y FOR TRAUMATIC STRESS STUD., <https://istss.org/public-resources/trauma-basics/what-is-childhood-trauma> [<https://perma.cc/P8EH-UVSU>] (last visited Nov. 8, 2021).

76. Ute Haring et al., *Reflecting on Childhood and Child Agency in History*, 5 PALGRAVE COMM. 1, 1 (2019).

77. *What Is Childhood Trauma*, JUSTSPEAK, <https://justspeak.org/what-is-childhood-trauma/> [<https://perma.cc/KSE7-9K58>] (last visited Sept. 18, 2022).

78. *Childhood Trauma*, *supra* note 75. See also *Effects of Complex Trauma*, NAT’L CHILD. TRAUMATIC STRESS NETWORK, <https://www.nctsn.org/what-is-child-trauma/trauma-types/complex-trauma/effects> [<https://perma.cc/2YNM-TZRT>] (last visited Nov. 8, 2021).

79. Haring et al., *supra* note 76.

80. *Effects of Complex Trauma*, *supra* note 78.

81. Rachael Pace, *Growing Up in an Abusive Home: Effects of Domestic Violence on Children*, MARRIAGE.COM, <https://www.marriage.com/advice/domestic-violence-and-abuse/effects-of-domestic-violence-on-children/> [<https://perma.cc/3L2J-KM25>] (last updated May 9, 2021).

82. *Impact on Children and Youth*, CHILD WELFARE INFO. GATEWAY, <https://www.childwelfare.gov/topics/systemwide/domviolence/impact/children-youth/> [<https://perma.cc/G7TW-BH9E>] (last visited Oct. 17, 2021).

who witness violence in the home lose the ability to have empathy towards others, while others feel socially isolated and unable to make friends due to the confusion and discomfort over which behavior is socially acceptable.⁸³ Further, children who witness domestic violence can suffer severe emotional and developmental difficulties that are like those of children who are direct victims of abuse.⁸⁴ In a domestic violence longitude study, researchers found that children who witnessed domestic violence were more likely to engage in risky, aggressive, and violent behavior as adults.⁸⁵ Domestic violence can have a devastating ripple effect that does not only harm families, but also communities.⁸⁶

B. Domestic Violence and the Law

The law in Indiana defines domestic violence according to Indiana Code Section 34-6-2-34.5 as: Domestic or family violence, unless it is an act of self-defense, is committed by a family or a household member attempting or threatening to cause physical harm or placing a family member in fear of physical harm or causing a family member to engage in nonconsensual sexual activity.

Further, “[a] person who is or has been a victim of domestic or family violence may file a petition for an order of protection against a: (1) family or household member who commits an act of domestic or family violence; or (2) person who has committed stalking under Ind. Code § 35-45-10-5 or a sex offense under Ind. Code § 35-42-4 against the petitioner.”⁸⁷ The term “family or household member” is defined in part as “a person who is dating or has dated,” and “a person who is engaged or was engaged in a sexual relationship.”⁸⁸

Courts in Indiana have the discretion to order domestic violence batterers to complete counseling. For example, Indiana Code § 35-38-2-2.3(a)(4) permits a trial court, as a condition of probation, to require a person to “[p]articipate in a treatment program, educational class, or rehabilitative service. . .”⁸⁹ Further, in *Skipworth*, the court of appeals held that the trial court’s dismissal of the domestic battery charge had no bearing on the trial court’s ability to assess whether domestic violence counseling is necessary as a treatment program.⁹⁰

Batterer intervention programs were founded in the late 1970s with the goal

83. *Id.*

84. *Id.*

85. Ericka Kimball, *Edleson Revisited: Reviewing Children’s Witnessing of Domestic Violence 15 Years Later*, J. FAMILY VIOLENCE 625, 626 (2016).

86. Caroline Newman, *The Pandemic is Increasing Intimate Partner Violence*, UAB NEWS HEALTH & MED. (Oct. 26, 2021), <https://www.uab.edu/news/health/item/12390-the-pandemic-is-increasing-intimate-partner-violence-here-is-how-health-care-providers-can-help> [<https://perma.cc/A5QY-SEUW>].

87. IND. CODE § 34-26-5-2(a) (2020).

88. IND. CODE §§ 34-6-2-44.8(2), (3) (2021).

89. *Skipworth v. State*, 68 N.E.3d 589, 590 (Ind. Ct. App. 2017) (quoting IND. CODE § 35-38-2-2.3(a)(4)).

90. *Id.* at 592.

of putting an end to domestic violence.⁹¹ Batterer intervention programs focus on changing the offender's behavior towards women.⁹² Batterer intervention programs include three approaches; (a) the psychotherapeutic approach, which is mostly aligned with CBT; (b) the family systems model, which focuses on family-based therapy; and (c) the feminist approach, which is what the Duluth Model follows.⁹³

Batterer intervention programs have become a part of every state's effort to put an end to domestic violence by rehabilitating batterers. Indiana defined Batterer's Intervention Programs to be necessary for any person convicted of domestic battery or a crime that involved domestic abuse, neglect, or violence.⁹⁴ In such cases, a trial court may require the person to complete a batterer's intervention program approved by the court. The state of Indiana requires the batterer to pay all expenses of the batterer's intervention program. The state also requires all batterer's intervention programs to be certified by the Indiana coalition against domestic violence.⁹⁵

Further, in 1992, the Indiana General Assembly created The Domestic Violence Prevention and Treatment ("DVPT") Grant program to support Indiana's domestic violence centers, to offer domestic violence training for service providers, and to expand services to treat and prevent domestic violence.⁹⁶ As the state administering agency, the Indiana Criminal Justice Institute is responsible for administering DVPT funds.⁹⁷

Other states took similar measures to provide meaningful intervention programs for domestic violence batterers. For example, the State of Mississippi defined batterer intervention programs as "a program that focuses on behavior modification for perpetrators of domestic violence to prevent domestic violence from reoccurring. This shall not include programs focusing on anger management or marriage counseling. Any batterer intervention program must document cooperation with a domestic violence shelter program."⁹⁸ West Virginia provided that a "[b]atterer intervention and prevention program," previously referred to as a program of intervention for perpetrators, means a licensed educational program that provides classes to individuals who commit acts of domestic violence or abuse, offering nonviolent strategies and values that promote respect and equality in intimate partner relationships.⁹⁹

91. Dekki, *supra* note 29.

92. *Id.*

93. *Id.*

94. IND. CODE § 34-26-5-2(a) (2020).

95. IND. CODE § 35-50-9-1 (2021).

96. IND. CODE § 5-2-6.7 (2020).

97. *Domestic Violence Prevention and Treatment Grant Program*, IND. CRIM. JUST. INST., <https://www.in.gov/cji/victim-services/dvpt/> [<https://perma.cc/VZY2-7K2P>] (last visited Nov. 8, 2021).

98. MISS. CODE § 93-21-101 (2018).

99. W. VA. CODE § 48-26-203 (2021).

Moreover, Florida set requirements for a successful batterers' intervention program, stating that a batterers' intervention program must hold the batterer accountable for acts of domestic violence. The program content shall also be based on a cognitive behavioral therapy model or psychoeducational model that addresses tactics of power and control by one person over another.¹⁰⁰ Oregon set similar requirements, providing that batterers' intervention programs must address male defendants, female defendants, defendants offending against same-sex victims, and circumstances in which the defendant or victim is gender nonconforming. Moreover, requirements must also be based on scientific research and direct practice, both with persons who have perpetrated domestic violence and with persons who have survived domestic violence.¹⁰¹

Finally, the Family Violence Prevention and Services Act ("FVPSA") was enacted by Congress in 1984 for the purpose of authorizing the Secretary to implement programs to increase public awareness about and prevent intimate partner violence by: (1) providing immediate shelter and supportive services for victims and their dependents; (2) providing technical assistance and training related to domestic violence programs; (3) providing State Domestic Violence Coalitions; (4) providing specialized services for abused parents and their children; and (5) operating a national domestic violence hotline. FVPSA emphasizes both primary and secondary prevention of violence.¹⁰²

C. Domestic Violence Recidivism

Domestic violence recidivism is the re-appearance of the offender, as the subject of complaints and offenses including non-compliance, threats, and physical violence.¹⁰³ Domestic violence offenders tend to have high rates of recidivism.¹⁰⁴ Three-fifths of individuals convicted of domestic violence are rearrested within two years—and sixty-seven percent of this group are rearrested for another domestic violence offense.¹⁰⁵ According to Tamika Payne, batterer intervention programs have not been proven to have an impact on reducing recidivism in domestic violence cases.¹⁰⁶ Treatment needs to be tailored based on gender, criminal history, and other relevant factors.¹⁰⁷ Research shows that

100. FLA. STAT. § 741.325 (2021).

101. OR. REV. STAT. § 180.700 (2021).

102. 45 C.F.R. § 1370.1 (2021).

103. Viet Nguyen & Mia Bird, *Tailoring Domestic Violence Programs to Reduce Recidivism*, PUB. POL'Y INST. CAL. (June 12, 2018), <https://www.ppic.org/blog/tailoring-domestic-violence-programs-to-reduce-recidivism/> [<https://perma.cc/T8GS-79S7>].

104. *Id.*

105. *Id.*

106. Tamika L. Payne, *Domestic Violence Recidivism: Restorative Justice Intervention Programs for First-Time Domestic Violence Offenders* (June 2017) (Ph.D. dissertation, Walden University), <https://scholarworks.waldenu.edu/cgi/viewcontent.cgi?article=4922&context=dissertations> [<https://perma.cc/684C-F7DF>].

107. Nguyen & Bird, *supra* note 103.

tailoring domestic violence intervention programs based on offenders' risks and needs could be beneficial in reducing recidivism.¹⁰⁸ The results of a natural field experiment conducted to assess the recidivism rate between the Duluth Model and CBT suggests that the Duluth approach has meaningfully higher recidivism rates compared to CBT.¹⁰⁹ Further, a meta-analysis of domestic violence interventions found little to no impact of the Duluth Model beyond mandatory arrest and recidivism.¹¹⁰ A study of psychological variables including truthfulness, violence, control, and coping abilities, found no meaningful change in these psychological traits among individuals before and after receiving treatment using the Duluth Model.¹¹¹

CBT is one of the more promising rehabilitative treatments for criminal offenders.¹¹² CBT was ranked among one of the top tiers with regard to effects on recidivism based on reviews of different treatment approaches.¹¹³ Evidence shows that CBT reduces recidivism among youth and adult offenders, and the effects are strongest for those who are at a higher risk of recidivism.¹¹⁴ CBT has been shown to reduce violence and other criminal behavior across populations.¹¹⁵ According to the Washington State Institute for Public Policy, every \$1.00 spent on delivering CBT to adult offenders yields a savings of \$6.31 in avoided criminal justice and associated healthcare costs, with a 97% likelihood that its benefits will exceed the cost of providing the service.¹¹⁶ As summarized by Amy Barch, "CBT is the most effective research-tested strategy to change criminal behavior."¹¹⁷

108. *Id.*

109. Chad Cotti et al., *Duluth Versus Cognitive Behavioral Therapy: A Natural Field Experiment on Intimate Partner Violence Diversion Programs*, 26 J. EXPERIMENTAL PSYCHOL. APPLIED 384, 384 (Oct. 10, 2019), <https://pubmed.ncbi.nlm.nih.gov/31599627/> [<https://perma.cc/CBU3-VWP7>].

110. Lily Gleicher & Jacquelyn Gilbreath, *Policies and Programs to Address Individuals Who Perpetrate Intimate Partner Violence*, ILL. CRIM. JUST. INFO. (May 11, 2021), <https://icjia.illinois.gov/researchhub/articles/policies-and-programs-to-address-individuals-who-perpetrate-intimate-partner-violence> [<https://perma.cc/9SC3-QA49>].

111. *Id.*

112. Mark W. Lipsey et al., *Effects of Cognitive-Behavioral Programs for Criminal Offenders*, 6 CAMPBELL SYSTEMATIC REV. 1, 4 (2007).

113. *Id.*

114. *Cognitive-Behavioral Therapy (CBT) for Offenders*, CNTY. HEALTH RANKINGS & ROADMAPS, <https://www.countyhealthrankings.org/take-action-to-improve-health/what-works-for-health/strategies/cognitive-behavioral-therapy-cbt-for-offenders> [<https://perma.cc/N8UP-CD2N>] (last updated Mar. 28, 2018).

115. Amy Barch, *A Better Way to Keep People from Going Back to Prison*, STAN. SOC. INNOVATION REV. (Jul. 7, 2021), https://ssir.org/articles/entry/a_better_way_to_keep_people_from_going_back_to_prison [<https://perma.cc/44N3-7SQ2>].

116. *Id.*

117. *Id.*

D. Intervention Methods

1. The Duluth Model

The Duluth Model was developed in early 1980s in Duluth, Minnesota by domestic violence activists Ellen Pence and Michael Paymar.¹¹⁸ The belief under this model is that battering is used to intentionally have power over and control the other partner.¹¹⁹ The Duluth Model aims to create a change by blaming men and “actively works to change societal conditions that support men’s use of tactics of power and control over women.”¹²⁰ The Duluth Model uses a one-size-fits-all counseling approach focused only on assault being viewed as a willful exercise of male privilege. Batterer intervention programs based on the Duluth Model ignore important factors related to violence, including substance abuse, stake-in-conformity motivations, personality features of the batterer, relational dynamics within the couple, history of trauma, and the role of shame.¹²¹ Researchers confirm what common sense dictates: that violence between individuals, while influenced by social and cultural variables, is more parsimoniously explained by an examination of individual characteristics, contexts, and functions of behavior.¹²²

According to Greg Bohall, because the Duluth Model was developed by activists, lacks a scientific base, does not require continuing education, has no governing body for practitioners, and is designed to be practiced by paraprofessionals, there is minimal evidence that culturally competent services are being provided to the clients via this model.¹²³ The Duluth Model favors the simplistic explanation of violence as the patriarchal view of the male needing to establish power and control.¹²⁴ This narrow focus that the Duluth Model is based on ignores the source of the issue and does a disservice to batterers and victims.¹²⁵ The Duluth Model rejects treatment through insight models, family systems theory, and CBT models, instead favoring a sociopolitical model.¹²⁶ There has

118. *What is The Duluth Model?*, DOMESTIC ABUSE INTERVENTION PROGRAMS, <https://www.theduluthmodel.org/what-is-the-duluth-model/> [https://perma.cc/9FTN-L37S] (last visited Oct. 17, 2021).

119. *Id.*

120. *Id.*

121. *It’s Time for Domestic Violence Treatment to Grow Up*, IRONSHRINK (Nov. 3, 2006), <https://ironshrink.com/2006/11/its-time-for-domestic-violence-treatment-to-grow-up/> [https://perma.cc/TW7R-HF4G].

122. *Id.*

123. Greg Bohall et al., *Intimate Partner Violence and the Duluth Model: An Examination of the Model and Recommendations for Future Research and Practice*, 31 J. FAM. VIOLENCE 1029, 1031 (2016).

124. *Id.*

125. *Id.*

126. *Information and Advice for Everyone Affected by Family Separation to Help Bring Better Outcomes for Children*, THE CTR. FOR SEPARATED FAMS., <https://www.separatedfamilies.org/>

been increasing concern about the use of this approach and its effectiveness.¹²⁷

2. Cognitive Behavioral Therapy

CBT is a psychological treatment that is based on research and clinical practice, and CBT has been proven to be effective for many problems, such as mental illnesses, marital problems, alcohol, and substance use, and much more.¹²⁸ CBT treatments involve working to change thinking and behavioral patterns.¹²⁹ CBT primarily focuses on how to help the individual understand their current state, and how to effectively cope with life moving forward.¹³⁰ CBT therapists work to identify the functional use of violence and its costs and benefits, then work to engage with their client in skill-building in the areas of communication, social skills, assertiveness, and anger management techniques (e.g., time-outs, relaxation training).¹³¹

CBT helps individuals break down the problem at hand into five fundamental areas: situations, thoughts, emotions, physical feelings, and actions.¹³² Unlike the Duluth Model, CBT does not focus on social-political issues and men's power over women. Rather, CBT focuses on "cognitive restructuring" and ways to think about and confront events in a more effective, non-violent way.¹³³ According to Mark W. Lipsey, "all cognitive-behavioral interventions employ a set of structured techniques aimed at building cognitive skills in areas where offenders show deficits and restructuring cognition in areas where offenders' thinking is biased or distorted."¹³⁴

CBT is a broad concept which can be tailored to focus on various aspects of life and address specific problems, such as emotional and social challenges.¹³⁵

info/home/practitioner-resources/lz-whats-wrong-with-the-duluth-model/ [https://perma.cc/8LYW-WUJW] (last visited Feb. 12, 2022).

127. *Id.*

128. *What is Cognitive Behavioral Therapy*, AM. PSYCH. ASSOC. (July 2017), <https://www.apa.org/ptsd-guideline/patients-and-families/cognitive-behavioral> [https://perma.cc/72EW-TP2J].

129. *Id.*

130. *Id.*

131. Gleicher & Gilbreath, *supra* note 110.

132. *How it Works – Cognitive Behavioral Therapy (CBT)*, NAT'L HEALTH SERV., <https://www.nhs.uk/mental-health/talking-therapies-medicine-treatments/talking-therapies-and-counselling/cognitive-behavioural-therapy-cbt/how-it-works/> [https://perma.cc/PQK9-FLK4] (last updated July 16, 2022).

133. Kathleen J. Ferraro et al., *Current Research on Batterer Intervention Programs and Implications for Policy*, BATTERED WOMEN JUST. PROJECT (Dec. 2017), <https://www.bwjp.org/assets/batterer-intervention-paper-final-2018.pdf> [https://perma.cc/N4N5-55UU].

134. Lipsey et al., *supra* note 112.

135. Kathleen Davis, *How Does Cognitive Behavioral Therapy Work?*, MED. NEWS TODAY (Sept. 25, 2018), <https://www.medicalnewstoday.com/articles/296579> [https://perma.cc/9GNP-7G7T].

CBT helps individuals gain an understanding of their current feelings, beliefs, and attitudes towards a specific situation and aims to transform distorted perceptions and interpretations.¹³⁶ According to Daniel Bier, CBT has been called the gold standard of Psychotherapy, providing a model to treat everything from mental illness to social problems.¹³⁷ CBT is more effective at treating domestic violence batterers because there are different models that treat a wide range of conditions.¹³⁸ Therefore, treatment can be tailored to fit each batterers' needs depending on their circumstances. CBT also aims to disrupt the cycle of unwanted behavior by slowing down the automatic emotional reactions and avoiding instinctive responses.¹³⁹ Because CBT does not focus on the specific problem and focuses on the person's thoughts and behaviors, it equips the individual with skills that can be used in different situations.¹⁴⁰ Therefore, CBT does not only address the violence committed by the batterer but will also address the root causes of the violence, such as childhood trauma or substance abuse issues.¹⁴¹

E. The Impact of Covid-19 on Domestic Violence

Domestic violence is a global pandemic that many have been victims of long before the Covid-19 Pandemic.¹⁴² As more individuals spent more time at home due to Covid-19's lockdown, there has been an increase in domestic violence incidents.¹⁴³ The policies of social distancing, self-isolation and lockdown adopted as a result of Covid-19 had an impact on the number of domestic violence occurrences primarily because perpetrators have more opportunities to assert power and dominance over the victim.¹⁴⁴ Due to the policies adopted as a result of Covid-19, access to domestic violence services for the victims are limited, putting victims at a higher risk for serious injury or death, and making it difficult for health care professionals to manage domestic violence cases amidst the Covid-19 demand.¹⁴⁵

136. *Id.*

137. Daniel Bier, *Can Cognitive Behavioral Therapy Break the Cycle of Violence?*, FREETHINK (April 18, 2019), <https://www.freethink.com/social-change/can-cognitive-behavioral-therapy-break-the-cycle-of-violence> [<https://perma.cc/C5ED-P8BC>].

138. *Id.*

139. *Id.*

140. Davis, *supra* note 135.

141. *Id.*

142. Diana Nadine Moreira & Mariana Pinto de Costa, *The Impact of the Covid-19 Pandemic in the Precipitation of Intimate Partner Violence*, INTEL. J. LAW & PSYCHIATRY (June 26, 2020), <https://pubmed.ncbi.nlm.nih.gov/32768122/> [<https://perma.cc/WQU5-ZU6H>].

143. Patrice M. Hicks et al., *The Possible Impact of Increased Physical Intimate Partner Violence During the COVID-19 Pandemic on Ocular Health*, SAGE OPEN MED. (Jul. 13, 2021), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8326617/> [<https://perma.cc/69J8-DFJ6>].

144. Moreira & Costa, *supra* note 142.

145. *Id.*

In 2020, domestic violence cases increased by an average of twenty-five to thirty-three percent globally.¹⁴⁶ According to Clare Cannon, research on domestic violence is often considered a homogeneous category, thus implicitly assumes that individuals experiencing domestic violence share the same life experiences.¹⁴⁷ However, in reality, various dimensions of social inequality, such as, gender race and ethnicity, migration, class, physical ability, can intersect to create unique challenges for individuals experiencing domestic violence during a pandemic.¹⁴⁸ This research suggests that CBT is an effective model because it takes into consideration a batterers' life experiences when working on a treatment plan with the batterer.

The Duluth Model, however, will not be effective in addressing the ever-increasing domestic violence rate. The Duluth Model is premised on the fact that men are perpetrators who are violent because society condones male's violence, and that women are victims who only act in self-defense.¹⁴⁹ The Duluth Model shows blatant bias, and the way it operates is not the result of academic study.¹⁵⁰ While the Duluth Model may have been somewhat effective in past decades, it is no longer effective as it does not take into consideration changes from previous decades. The Duluth Model may have been effective in previous years because, historically, violence against women was a neglected topic.¹⁵¹ The abuse of women was ignored, denied, made light of, and even legitimized and supported by cultural norms.¹⁵² However, over the past twenty years, the gender asymmetry assumptions of domestic violence have been increasingly challenged.¹⁵³ According to Jennifer Langhinrichsen-Rohling, results from several surveys revealed that the rates with which women reported being violent toward their male partners was similar to, if not even in excess of, the rates with which men reported being violent toward their female partners.¹⁵⁴

146.

147. Clare E. B. Cannon et al., *Covid-19 Intimate Partner Violence, and Communication Ecologies*, AM. BEHAV. SCIENTIST (Feb. 6, 2021), <https://journals.sagepub.com/doi/10.1177/0002764221992826> [<https://perma.cc/7R3K-R6JZ>].

148. *Id.*

149. *Myth: Duluth Model*, EQUI-LAW U.K., <https://equi-law.uk/duluth-model/> [<https://perma.cc/8JSQ-2PUN>] (last visited Mar. 21, 2022).

150. *Id.*

151. Jennifer Langhinrichsen-Rohling et al., *Rates of Bidirectional Versus Unidirectional Intimate Partner Violence Across Samples, Sexual Orientations, and Race/Ethnicities*, 3 PARTNER ABUSE 2, https://equi-law.uk/wp-content/uploads/2020/08/bi-directionally_violent_couples.pdf [<https://perma.cc/U2FL-4RB7>] (last visited Feb. 15, 2022).

152. *Id.*

153. *Id.*

154. *Id.*

IV. ANALYSIS: COGNITIVE BEHAVIORAL THERAPY IS AN EFFECTIVE INTERVENTION METHOD TO REDUCE DOMESTIC VIOLENCE RECIDIVISM RATES

The result of a three-year natural field experiment analyzing the effectiveness of CBT and Duluth treatment programs showed that the domestic violence recidivism rate was eleven percent higher for offenders who were assigned to a Duluth treatment program.¹⁵⁵ The major goals of the Duluth Model (respectful and non-abusive relationships) do not differ from those of other theoretical models of intervention for abusive men (such as Cognitive Behavioral Therapy). However, the means to the end differ significantly from psychological and family systems models that have been proven to be more effective than the Duluth Model.¹⁵⁶ The Duluth Model claims to be cognitive-behavioral therapy, but it contradicts the tenets of CBT in its practice of gender shaming as an intervention technique.¹⁵⁷

A. The Difference Between the Duluth Model and Cognitive Behavioral Therapy

Research has shown that individualized cognitive behavioral therapy for domestic violence offenders reduced physical and emotional abuse during and following treatments.¹⁵⁸

Studies have also shown that programs that use Duluth-like models had no effect on recidivism.¹⁵⁹ On the other hand, research has shown that programs that used different methods—namely, CBT—reduced domestic violence recidivism by thirty-three percent.¹⁶⁰ In a study assessing domestically violent male U.S. Navy personnel, there were no significant differences in recidivism rates between those who were in a CBT program and the no-treatment control group. However, “this study lacked randomization and a control group.”¹⁶¹

The Duluth Model is a program developed to reduce domestic violence against women.¹⁶² The Duluth Model is known for eliminating the psychology of

155. Chad Cotti et al., *Duluth Versus Cognitive Behavioral Therapy: A Natural Field Experiment on Intimate Partner Violence Diversion Programs*, J. OF EXPERIMENTAL PSYCH. APPLIED (June 2020), <https://pubmed.ncbi.nlm.nih.gov/31599627/> [<https://perma.cc/ZQ7U-K2X3>].

156. Donald G. Dutton & Kenneth Corvo, *Transforming a Flawed Policy: A Call to Revive Psychology and Science in Domestic Violence Research and Practice*, AGGRESSION & VIOLENT BEHAV. (Sept. 2006), http://www.mediadar.org/docs/Dutton_Corvo-Transformingflawed-policy.pdf [<https://perma.cc/N5J2-9YMU>].

157. *Id.*

158. Bohall et al., *supra* note 123.

159. Miller et al., *supra* note 17.

160. *Id.*

161. Bohall et al., *supra* note 123.

162. *Is the Duluth Model Successful?*, PSYCHOLOGYANSWERS, <https://psychologyanswers.com/library/lecture/read/362217-is-the-duluth-model-successful> [<https://perma.cc/H3NH-V8UA>] (last visited Dec. 15, 2021).

violence from treatment and replacing it with gender politics.¹⁶³ The Duluth Model ignores the reality that women can also be perpetrators in intimate relationships.¹⁶⁴ Because the Duluth Model targets only men as the perpetrators in the relationship, and treats men as having control over women, this method cannot be utilized for same-sex couples or in relationships where the female partner is the perpetrator of violence.¹⁶⁵ Further, a 2011 study found that there is no clear empirical evidence for either the effectiveness or relative superiority of the Duluth Model as an intervention method over others.¹⁶⁶

In a 2004 comparison study between the CBT and Duluth Models, the pure CBT had better results.¹⁶⁷ At least one study concluded that pure CBT programs, those completely devoid of traditional Duluth Model components, boasted the most successful results for batterer treatment.¹⁶⁸ According to Mina Elmasry, CBT “has been proven to rehabilitate domestic violence offenders with personality disorders.”¹⁶⁹ While this may be true, there is no logical reason why CBT cannot be used for all domestic violence offenders. Research has shown that those involved in domestic violence have an underlying factor for their violence.¹⁷⁰ Therefore, using CBT on all offenders is highly likely to reduce recidivism. The correlation between violence and shaming experiences, however, demands caution against conflating shame with accountability.¹⁷¹ While shame can be an effective and critical tool for behavior modification, its effectiveness is heavily dependent upon how it is imposed or experienced by an individual.¹⁷² This research is crucial as it proves another reason the Duluth Model does not work for individuals who already practice self-shame for their violence.

According to Donald Dutton, a psychologist at University of British Columbia, “the Duluth Model views assault as a choice made by men acting in concert with the norms of a sexist society.”¹⁷³ But he says that perspective ignores

163. Bohall et al., *supra* note 123.

164. *Id.*

165. *Id.*

166. *Is the Duluth Model Successful?*, *supra* note 162.

167. Johnna Rizza, *Beyond Duluth: A Broad Spectrum of Treatment for a Broad Spectrum of Domestic Violence*, 70 MONT. L. REV. 125, 127 (2009).

168. *Id.*

169. Mina Elmasry, *Eradicating the Plague: Charging and Sentencing Domestic Violence Offenders Using Science, Not Tradition*, 47 SW. L. REV. 251, 253 (2017).

170. *Risk Factors for Intimate Partner Violence Perpetration*, CTRS. FOR DISEASE CONTROL & PREVENTION (Oct. 9, 2020), <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/riskprotectivefactors.html> [<https://perma.cc/7SHV-9MMP>].

171. A. Rachel Camp, *Pursuing Accountability for Perpetrators of Intimate Partner Violence: The Peril (and Utility?) of Shame*, 98 B. U. L. REV. 1677, 1735 (2018).

172. *Id.*

173. Bob Kelleher, *Duluth Treatment Model is 30 Years Old; Its Effectiveness Hotly Debated*, MPRNEWS (Oct. 22, 2010), <https://www.mprnews.org/story/2010/10/21/duluth-treatment-model> [<https://perma.cc/EZ4C-MS4G>].

factors such as poverty, stress, chemical dependency, anxiety, or the man's own lifetime experience of being victimized.”¹⁷⁴ Further, a study was conducted to examine behavior and belief changes in offenders who participated in a Duluth Model batterer intervention program revealed that “over one third of the participants from this batterer intervention program eventually reoffended.”¹⁷⁵ Numerous studies revealed that the Duluth Model has little or no positive effect on violent behavior. Duluth Model programs often do not consider a person’s mental health or substance abuse issues.¹⁷⁶ According to Stefan Hofmann, modern CBT refers to a family of interventions that combine a variety of cognitive, behavioral, and emotion-focused techniques.¹⁷⁷ According to Lily Gleicher and Jacquelyn Gilbreath, the Duluth Model does not integrate American Psychological Association’s Diagnostic and Statistical Manual diagnoses and is considered to be a tool for consciousness-raising education, rather than a therapeutic intervention.¹⁷⁸

Historically, domestic violence was seen as a gender-based phenomenon in which men batter women to maintain their authority in our patriarchal society.¹⁷⁹ Some research has shown that intimate partner violence by women is equal to or higher than intimate partner violence perpetrated by men.¹⁸⁰ According to Caroline Newman, domestic violence incidents are more commonly reported by heterosexual women, but it is likely to be underreported in men, transgender and gender non-conforming people, and same-sex relationships.¹⁸¹ Approximately five-percent of males are killed by their intimate partner annually.¹⁸² A review of thirty-one studies examining the rates at which females were the perpetrators in relationships estimates that domestic violence perpetrated by women in the last year was up to sixty-eight percent of all domestic violence cases examined in

174. *Id.*

175. Katharine Herman et al., *Outcomes from a Duluth Model Batterer Intervention Program at Completion and Long Term Follow-Up*, 53 J. OFFENDER REHAB. (Jan 21, 2014), <https://www.tandfonline.com/doi/abs/10.1080/10509674.2013.861316> [<https://perma.cc/6BLU-UYUJ>].

176. Kenneth Corvo et al., *Do Duluth Model Interventions with Perpetrators of Domestic Violence Violate Mental Health Professional Ethics?*, 19 ETHICS & BEHAV. 323 (July 23, 2009), <https://www.tandfonline.com/doi/abs/10.1080/10508420903035323> [<https://perma.cc/9ECSZSGL>].

177. Stefan Hofmann et al., *The Efficacy of Cognitive Behavioral Therapy*, 36 U.S. NAT’L LIB. MED. NAT’L INST. HEALTH 427 (Oct. 1, 2012), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3584580> [<https://perma.cc/MR42-MRY9>].

178. Lily Gleicher & Jacquelyn Gilbreath, *Policies and Programs to Address Individuals Who Perpetrate Intimate Partner Violence*, ILL. CRIM. JUST. INFO. (May 11, 2021), <https://icjia.illinois.gov/researchhub/articles/policies-and-programs-to-address-individuals-who-perpetrate-intimate-partner-violence> [<https://perma.cc/7VJL-JUF2>].

179. Bohall et al., *supra* note 123.

180. *Id.*

181. Newman, *supra* note 86.

182. Martin R. Huecker et al., *Domestic Violence*, STATPERALS, <https://www.ncbi.nlm.nih.gov/books/NBK499891/> [<https://perma.cc/R47F-SHK6>] (last updated Feb. 10, 2022).

those studies.¹⁸³ Over three million acts of domestic violence occur annually to men.¹⁸⁴ Approximately 800,000 male assaults occur annually.¹⁸⁵ Mutual violence was reported among more than fifty percent of couples who reported physical violence.¹⁸⁶ Gay, lesbian, bisexual, and transgender domestic violence victims are approximately twenty-five percent, a similar rate to heterosexual women victims.¹⁸⁷ Similarly, the Duluth Model is also based on gender-specific beliefs.¹⁸⁸ and CBT focuses on the perpetrator's cognition and behavior, regardless of gender and sexual orientation; CBT is more likely to be more effective than the Duluth Model.

Furthermore, CBT works by acknowledging that any kind of distress, such as anger, violence, anxiety, and depression are a result of a biased way of thinking.¹⁸⁹ The functionality of violent behavior is explored along with the pros and cons of using violence to solve problems and alternative solutions for dealing with antecedents of violence are discussed during CBT sessions.¹⁹⁰ A therapist's role when using CBT is to identify the biases that are resulting in distress and help the client create a cognitive shift.¹⁹¹ Mental health practitioners advocate for the use of the individualistic model of intimate partner violence.¹⁹² They often recommend treatment for men's mental illnesses and adopt various psychodynamic approaches.¹⁹³ Psychodynamic programs are founded on the perspective that violence is a symptom of an underlying problem within the violent person requiring therapeutic intervention.¹⁹⁴ This goal can be easily met by the use of CBT. Finally, research has shown that CBT programs are effective at deterring crime, assisting victims, and preventing recidivism.¹⁹⁵

183. Alexandra L. Snead et al., *Treatments that Work for Intimate Partner Violence: Beyond the Duluth Model: The Translation of Evidence-Based Practices to Correctional Settings*, *New Frontiers in Offender Treatment* (Jan. 2018), https://www.researchgate.net/publication/329010138_Treatments_that_Work_for_Intimate_Partner_Violence_Beyond_the_Duluth_Model_The_Translation_of_EvidenceBased_Practices_to_Correctional_Settings [<https://perma.cc/6MFC-SLVB>].

184. Huecker et al., *supra* note 182.

185. *Id.*

186. Snead, *supra* note 183.

187. Huecker et al., *supra* note 182.

188. Snead, *supra* note 183.

189. Richard Amaral, *Explaining Domestic Violence using Cognitive-Behavioural Theory*, *PSYCHOLOGY FOR GROWTH* (Mar. 28, 2011), <https://psychologyforgrowth.com/2011/03/28/domestic-violence-an-cbt/> [<https://perma.cc/TFW3-KPRL>].

190. *Id.*

191. *Id.*

192. Snead, *supra* note 183.

193. *Id.*

194. *Id.*

195. Thomas Feucht & Tammy Holt, *Does Cognitive Behavioral Therapy Work in Criminal Justice?*, *NAT'L INST. JUST.* (May 25, 2016), <https://nij.ojp.gov/topics/articles/does-cognitive->

V. THE FUTURE OF COGNITIVE BEHAVIORAL THERAPY

CBT is more likely to show success at reducing domestic violence and recidivism due to its different models that aim to address various problems that each lead to domestic violence. Hence, better results can be accomplished through the adoption of a universal model that can be used across Indiana. Adopting CBT as the main intervention method in Indiana will be effective for many reasons. For example, while CBT is one type of intervention method, it incorporates different models and strategies to personalize services to each batterer. Some of the strategies used in CBT are similar to the Duluth Model, but, unlike the Duluth Model, those strategies are used in concert with other strategies and not on their own. Thus, CBT is more likely to be more effective in appealing to batterers with different experiences due to its flexibility in using diverse strategies.

Further, the use of a universal model will ensure that all batterers receive the appropriate treatment. This is true to the use of CBT not only because of the different approaches used, but also because CBT can only be delivered by trained professionals. On the other hand, the Duluth Model can be delivered by any individual as the curriculum is available in an easy-to-follow workbook.¹⁹⁶ Many companies choose the Duluth Model because it seems convenient and more affordable. However, the Duluth Model is rendered expensive and inconvenient when our criminal justice system and society as a whole continue to suffer due to batterers' recidivism, especially when that recidivism arises because batterers did not receive the proper treatment the first time around. Also, allowing untrained individuals to attempt to address a deeply complicated matter robs batterers of the opportunity to effectively rehabilitate and the victims of a chance at redemption.

A. A Statute Adopting Cognitive Behavioral Therapy

For Indiana to adopt a uniform, effective model to end the domestic violence cycle and reduce recidivism, the state legislature would need to effectuate legislation that mandates CBT to batterers' sentences. A hypothetical statute that would be successful in adopting a uniform model to combat domestic violence would state the following:

1. Individuals convicted of a domestic violence offense, or a domestic violence related offense must complete cognitive behavioral therapy.
2. The specific cognitive behavioral therapy model to be used is to be determined by a trained professional following the completion of an assessment to determine the specific needs of the individual and the best approach necessary to address all issues resulting in domestic violence.

behavioral-therapy-work-criminal-justice-new-analysis-crimesolutions#note4 [https://perma.cc/9NGQ-V9PB].

196. *Domestic Abuse Intervention Programs*, BOOKS & MANUALS, <https://www.theduluthmodel.org/product-category/booksmanuals/> [https://perma.cc/EY59-3JEB] (last visited Feb. 17, 2022).

3. Upon completion of all required services, a progress report must be submitted to the court by the professional with recommendations and feedback as to the progress of the individual participating in therapy, what was accomplished during the therapy, and how the individual can maintain positive progress.
4. At the court's discretion, after considering the professional's progress report, the court may order additional services along with the primary cognitive behavioral therapy intervention method.
5. The professional must also provide the client with a copy of the report.

Furnishing a progress report to the court will work to hold batterers and the professionals administering their care accountable and give victims their due diligence and peace of mind in legitimizing the necessity of CBT treatment for batterers. Those steps also give batterers the opportunity to work closely with a professional on targeting specific issues that need to be addressed. Whether CBT is administered in a group setting or one on one, the sessions are always confidential, which helps build a trusting relationship between the professional and the client.

B. Advantages and Disadvantages of Enacting a Statute Adopting Cognitive Behavioral Therapy

Some advantages of adopting a cognitive behavioral therapy statute include the uniformity of using an effective intervention method across a state. Also, the high quality of services delivered will more likely lead to successful results and lower recidivism of domestic violence. Unlike the Duluth Model that is based on personal beliefs, CBT has been analyzed by multiple studies where the data was "well-controlled" and "analyzed sufficiently," and the results repeatedly shown that CBT is effective for a wide range of disorders.¹⁹⁷ According to Dr. Robert L. Leahy, "If psychiatry or psychotherapy is to be taken seriously, it must rely on empirical research. We cannot simply use anecdotes, testimonials, narratives, or tirades to guide our choice of treatments."¹⁹⁸

Further, unlike the Duluth Model's premise that a domestic violence batterer's only reason for violence is to assert power, control, and dominance over their partner, CBT works with batterers with the idea that there are other deeply rooted struggles that cause the batterer to behave violently towards their partner. CBT works with batterers to address those deeply rooted issues, which, in turn, lowers violent incidents. Psychologists agree that CBT examines the origins of the problems presented by individuals.¹⁹⁹ According to Stefan Hofmann, CBT

197. Robert L. Leahy, *Cognitive-Behavioral Therapy: Proven Effectiveness, CBT is the Treatment of Choice*, PSYCHOL. TODAY (Nov. 23, 2011), <https://www.psychologytoday.com/au/blog/anxiety-files/201111/cognitive-behavioral-therapy-proven-effectiveness>, [<https://perma.cc/6FXR-TCTC>].

198. *Id.*

199. *Id.*

protocols have been developed that specifically address various cognitive and behavioral maintenance factors of various disorders.²⁰⁰ Dr. Leahy explains the work of Judith Beck, who describes the formation of early schemas (during childhood) that then direct selective attention and maladaptive coping.²⁰¹ Also, a branch of CBT called Focused Therapy, founded by Jeffrey Young, places considerable emphasis on early maladaptive schemas.²⁰² Finally, Dr. Leahy states “sophisticated cognitive therapists utilize case conceptualization, developing a model of the origins of early schemas, linking them to underlying core beliefs and maladaptive assumptions and developing strategies to modify the patient's coping and belief system.”²⁰³

Moreover, because batterers who undergo CBT receive quality treatment to improve their overall behavior and mental health, CBT is a “one and done” type of treatment. CBT reduces recidivism, which decreases overcrowding in prisons, preserves the criminal justice system’s resources, and puts taxpayer dollars to good use. Finally, the positive long-term effects of using an effective intervention method will save victims and children from further harm, reduce crimes and substance abuse, and positively impact society.

While the main disadvantage of implementing a CBT statute is that it may be difficult to locate and recruit quality trained professionals, this nuance can be resolved by creating incentives, benefits, and job stability to those interested in this profession. While this may take time and effort, the results will prove that this time and effort was well spent.

VI. CONCLUSION

Because cognitive behavior therapy focuses on a person’s cognitive and aims to change behavior through changing thoughts, it is more likely to reduce recidivism and lower domestic violence rates. The Duluth Model has not shown significant results in reducing domestic violence rates and recidivism despite the model being used by most states for decades. The Duluth Model is not effective because it is premised on the belief that men are always the perpetrators in the relationship and that intervention occurs through the shame of violent offenders. This however is not a sound method because it fails to address homosexual relationships and relationships in which women are the violent partners. The Duluth Model is not effective in those offenders who are prone to self-shame because the “placing shame” theory is no longer effective in those situations.²⁰⁴

Further, the Duluth Model does not take into consideration facets of a batterer’s history such as childhood trauma, witnessing domestic violence as a child, growing up in poverty, having a low educational and developmental level, and any substance or alcohol abuse by the batterer or the batterers’ caregivers. As

200. Hofmann et al., *supra* note 177.

201. Leahy, *supra* note 197.

202. *Id.*

203. *Id.*

204. Ferraro et al., *supra* note 133.

a result, the Duluth Model is unlikely to see long term change and positive results because the treatment is not tailored to the batterer. Instead, the batterer is forced to fit the treatment. CBT is more effective because it uses different models under the CBT umbrella to deliver the best treatment tailored to the client's needs, whereas the Duluth Model is used in a "one size fits all" method. Because batterers come from different walks of life, and have different life experiences, they cannot all be treated in the same way, making the Duluth Model a treatment that simply does not work. Victims, children, and our society deserve better.