



TEXAS

**Department of Family
and Protective Services**

Investigations

**Disposition Guidelines for
Domestic Violence
Resource Guide**

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PURPOSE

These guidelines are intended to provide guidance when determining a disposition for a case where domestic violence has been identified in the family. Other potential dispositions regarding abuse or neglect in a family where domestic violence is present should also be addressed according to the definitions, policies, or guidelines that apply to the situation.

DEFINITION OF DOMESTIC VIOLENCE

Domestic violence is a pattern of behavior that is used to gain or maintain power and control over a current or former intimate partner. It can include physical, sexual, emotional, economic or psychological actions or threats of actions that influence another person. Domestic violence can happen to anyone of any race, age, sexual orientation, religion, gender, socioeconomic background or education level. It can happen to couples, both adults and minors, who are married, separated, divorced, living together or who are dating. In the Texas Family Code, domestic violence is defined as "family violence"¹. Intimate partner violence (IPV) is another term often used to describe the dynamics of domestic violence. Not all forms of domestic violence meet the legal definition of family violence from the Family Code. The Family Code definition used when seeking to obtain Protective Orders is referenced in the criminal codes.²

¹The [Texas Family Code Sec. 71.004](#): "Family violence" means: (1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself; (2) abuse, as that term is defined by Sections 261.001(1)(C), (E), (G), (H), (I), (J), and (K), by a member of a family or household toward a child of the family or household; or (3) dating violence, as that term is defined by Section 71.0021.

² Excerpted from Senate Bill 434 Task Force to Address the Relationship between Domestic Violence and Child Abuse and Neglect Report. The definition was agreed upon by the taskforce and presented to the Legislature. This definition formed the foundation for the recommendations for future change in CPS policy.

CORE CONCEPTS TO GUIDE DECISION MAKING

Frequently, domestic violence also occurs in cases of child abuse and neglect. A child's exposure to domestic violence, in and of itself, does not constitute child abuse or neglect by the adult victim of domestic violence. Domestic violence that physically harms a child or puts the child at substantial risk of immediate harm would constitute an allegation of child abuse or neglect. The Core Concepts discussed below reflect guiding principles in working cases where domestic violence has been used not just with regard to dispositions and could be applied to other caregivers and family members as well.

Core Concepts

- Domestic violence perpetrators affect the safety and well-being of children and should be held accountable for how their actions affect the safety and well-being of both the adult victim of domestic violence and child victims.
- Do not hold the victim of domestic violence accountable for abuse and neglect of a child solely based on the individual being a victim of domestic violence. If a child is at risk of harm due solely to the violence committed against the adult victim, hold the adult victim accountable only for failing to remove the child from that risk of harm, and only after considering the totality of circumstances.
- It is key that CPS assess the ability of the adult victim to take protective action given the possibility the violence may escalate if the adult victim takes action.

- Enhancing the safety of the parent who is a victim of domestic violence enhances the child's safety.
- It is key that CPS accurately assess the protective actions exhibited by the parent who is a victim of domestic violence.
- A child should remain in the care of an adult victim of domestic violence who demonstrates sufficient protective actions to keep the child safe, consistent with the safety and best interest of the child. If the caseworker determines that a child is not safe despite the efforts made by an adult victim of domestic violence, the caseworker should consider a continuum of safety interventions, and if absolutely necessary to protect the safety of the child, alternative placement.
- The household needs sufficient resources to address the co-occurrence of domestic violence and child maltreatment and to achieve the safety and well-being of the adult victim and the child.

GENERAL ISSUES TO CONSIDER IN DECISION MAKING

- The degree to which a child is vulnerable to the violence.
- The history and outcome of police reports involving previous calls at the address for domestic violence.
- Hospital and medical records indicating incidents of violence.
- The presence of parental substance abuse and mental illness and how this impacts the level of danger in home.
- The frequency and intensity of the domestic violence including the use or threatened use of weapons in the past.

THE ALLEGED PERPETRATOR

General Issues to Consider for the Alleged Perpetrator:

- The history and outcome of past court orders, participation with probation and parole, past restrictions on access to the children and past referrals made, when applicable.
- The reasons why the alleged perpetrator of domestic violence refused any offered services (i.e. Batterer Intervention and Prevention Program-BIPP, substance abuse).
- The parent's ability to access reasonably available resources (i.e. language barriers, mental health, lack of knowledge, lack of transportation).

THE ALLEGED ADULT VICTIM

General Issues to Consider for the Alleged Adult Victim:

- The parent's ability to take protective actions.
- History and outcome of using court services for protection.
- History and outcome of seeking help and making arrangements to protect the child, such as taking him or her to a relative's or friend's house, using domestic violence shelters, etc.
- Plan for the protection of the children and himself or herself.
- Accessibility of services for the adult victim (i.e., availability of shelters, place for safety, domestic support, legal services, District Attorney's willingness to file protective orders that include the children).
- Parent's ability to access reasonably available resources (i.e., language barriers, mental health, lack of knowledge, lack of transportation).
- The reasons why the alleged adult victim refused any offered services.
- Motivation behind whether the adult victim stays or leaves (i.e., past bad experience with previous requests for help).

FACTORS THAT COULD SUPPORT SPECIFIC FINDINGS

PHYSICAL ABUSE - REASON TO BELIEVE

One or more factors that could support a finding of Reason to Believe (RTB) for Physical Abuse (PHAB)...

| ... for the perpetrator of domestic violence: | ... for the adult victim of domestic violence: |
|--|--|
| <ul style="list-style-type: none"> • The child received a physical injury that results in substantial harm or genuine threat of substantial harm from physical injury. • Intentional acts of violence towards the child that may not necessarily have caused physical injury. • The perpetrator hits the adult victim while the adult victim is holding the child, creating a genuine threat of substantial harm from physical injury to the child. • If the caseworker has gathered a preponderance of the evidence in support of a disposition, the caseworker can still make the disposition even if the perpetrator refuses to be interviewed or cooperate in the current investigation. | <ul style="list-style-type: none"> • After considering the totality of circumstances, the caseworker determines that: <ul style="list-style-type: none"> • the child is physically abused, AND • the adult victim failed to take advantage of supports that would have protected the child and that were reasonably available to the adult victim in the past or made available during a prior CPS investigation or intervention. |

PHYSICAL ABUSE - UNABLE TO DETERMINE

Factors that could support a finding of Unable to Determine (UTD) for Physical Abuse (PHAB) ...

| ... for the perpetrator of domestic violence: | ... for the adult victim of domestic violence: |
|--|--|
| <ul style="list-style-type: none"> • There is not a preponderance of the evidence that abuse or neglect occurred; and • It is not reasonable to conclude that abuse or neglect has not occurred. | <ul style="list-style-type: none"> • There is not a preponderance of the evidence that abuse or neglect occurred; and • It is not reasonable to conclude that abuse or neglect has not occurred. |

PHYSICAL ABUSE - RULED OUT**Factors that could support a finding of Ruled Out (R/O) for Physical Abuse (PHAB) ...**

| ... for the perpetrator of domestic violence: | ... for the adult victim of domestic violence: |
|--|--|
| <ul style="list-style-type: none"> • There are no injuries to the child and there was not a risk of substantial physical harm to the child. • There is no indication the child's physical safety was in imminent danger when the incident occurred. • If the child was struck during the incident and there was not an indication of genuine threat of physical harm to the child by being hit. (Consider Neglectful Supervision - NSUP.) • The child has minimal need for supervision and violence did not place the child at substantial risk of harm. | <ul style="list-style-type: none"> • During the incident of domestic violence, the child was not harmed and there was not risk of substantial physical harm to the child. • The adult victim took all reasonable actions to protect the child during the violence based upon the circumstances of the episode. • The child was accidentally injured or placed at substantial risk of physical harm by the adult victim when the adult victim was acting in efforts to protect the child. • Children are not in the proximity of the violence. (Proximity is defined as the child being located in a place that reasonably places the child at risk of physical harm by the level of violence.) • The child has minimal need for supervision and violence did not place the child at substantial risk of harm. |

NEGLECTFUL SUPERVISION - REASON TO BELIEVE

Factors that could support a finding of Reason to Believe (RTB) for Neglectful Supervision (NSUP)...

| ... for the perpetrator of domestic violence: | ... for the adult victim of domestic violence: |
|---|---|
| <ul style="list-style-type: none"> • Children are in the proximity of the violence. (Proximity is defined as the child being located in a place that reasonably places the child at risk of physical harm by the level of violence.) • The child has a high need for supervision and the perpetrator's use of violence renders the caregivers incapable of providing adequate supervision. • The perpetrator violates a protective order, safety plan or PCSP and the violation or behavior places the child at substantial risk of immediate harm. • If the caseworker has gathered a preponderance of the evidence in support of a disposition, the caseworker can still make the disposition even if the perpetrator refuses to be interviewed or cooperate in the current investigation. | <ul style="list-style-type: none"> • The adult victim failed to take advantage of supports that would have protected the child and that were reasonably available in the past or made available during a prior CPS investigation or intervention, AND there is currently a substantial risk of immediate harm to the child. • The perpetrator gains access to the child and all of the following occurs: <ul style="list-style-type: none"> • The adult victim was not threatened, coerced or otherwise made to allow access by the perpetrator; • Access by the perpetrator violates a safety plan, PCSP, protective order, or otherwise reflects an absence of protective action by the perpetrator and victim; AND • The access leads to another incident that places the child at substantial risk of immediate harm. |

NEGLECTFUL SUPERVISION - UNABLE TO DETERMINE

Factors that could support a finding of Unable to Determine (UTD) for Neglectful Supervision (NSUP) ...

| ... for the perpetrator of domestic violence: | ... for the adult victim of domestic violence: |
|--|--|
| <ul style="list-style-type: none"> • There is not a preponderance of the evidence that abuse or neglect occurred; and • It is not reasonable to conclude that abuse or neglect has not occurred. | <ul style="list-style-type: none"> • There is not a preponderance of the evidence that abuse or neglect occurred; and • It is not reasonable to conclude that abuse or neglect has not occurred. |

NEGLECTFUL SUPERVISION - RULED OUT**Factors that could support a finding of Ruled Out (R/O) for Neglectful Supervision (NSUP) ...**

| ... for the perpetrator of domestic violence: | ... for the adult victim of domestic violence: |
|---|--|
| <ul style="list-style-type: none"> • The child is not in the proximity of the violence. (Proximity is defined as the child being located in a place that reasonably places the child at risk of physical harm by the level of violence.) • The child has minimal need for supervision and violence used by the perpetrator did not place child at substantial risk of immediate harm. | <ul style="list-style-type: none"> • The adult victim took some protective step to keep the child safe. Even in instances where past abuse has occurred, the adult victim made efforts to take some protective action (i.e., telling kids to get out of the room, staying in the home so as not to cause greater violence or by removing the child from the situation or leaving with the child). • The children are not in the proximity of the violence. (Proximity is defined as the child being located in a place that reasonably places the child at risk of physical harm by the level of violence.) • The child has minimal need for supervision and violence did not place the child at substantial risk of immediate harm. • The perpetrator gains access to the home by coercing, threatening or otherwise making the adult victim allow access and another incident occurs that places the child at substantial risk of immediate harm. • The perpetrator gains access to the home but access does not place the child at substantial risk of immediate harm. |

EMOTIONAL ABUSE - REASON TO BELIEVE

NOTE: Allegations and Reason to Believe (RTB) findings in Emotional Abuse cases are extremely rare. The following chart helps guide your decisions regarding dispositions involving emotional abuse. CPS staff must consult with professional collaterals to assist in assessing whether the child has been emotionally abused by the perpetrator and adult victim. CPS recommends any professionals consulted have training in domestic violence.

Factors that could support a finding of Reason to Believe (RTB) for Emotional Abuse (EMAB) ...

| ... for the perpetrator of domestic violence: | ... for the adult victim of domestic violence: |
|---|--|
| <ul style="list-style-type: none"> • A therapist, psychologist, psychiatrist, or physician states that the child has a mental or emotional injury that results in an observable and material impairment in the child’s growth, development, or psychological functioning caused by domestic violence committed by the perpetrator. • If the caseworker has gathered a preponderance of the evidence in support of a disposition, the caseworker can still make the disposition even if the perpetrator refuses to be interviewed or cooperate in the current investigation. | <ul style="list-style-type: none"> • After considering the totality of circumstances, the caseworker determines that: <ul style="list-style-type: none"> • a therapist, psychologist, psychiatrist, or physician preferably trained in domestic violence states the child has a mental or emotional injury resulting in an observable and material impairment to the child’s growth, development, or psychological functioning caused by domestic violence committed by the perpetrator, AND • The adult victim failed to take advantage of supports that would have protected the child and that were reasonably available in the past or made available during a prior CPS investigation or intervention. |

EMOTIONAL ABUSE - UNABLE TO DETERMINE**Factors that could support a finding of Unable to Determine (UTD) for Emotional Abuse (EMAB) ...**

| ... for the perpetrator of domestic violence: | ... for the adult victim of domestic violence: |
|--|--|
| <ul style="list-style-type: none"> • There is not a preponderance of the evidence that abuse or neglect occurred; and • It is not reasonable to conclude that abuse or neglect has not occurred. | <ul style="list-style-type: none"> • There is not a preponderance of the evidence that abuse or neglect occurred; and • It is not reasonable to conclude that abuse or neglect has not occurred. |

EMOTIONAL ABUSE - RULED OUT**Factors that could support a finding of Ruled Out (R/O) for Emotional Abuse (EMAB) ...**

| ... for the perpetrator of domestic violence: | ... for the adult victim of domestic violence: |
|--|--|
| <ul style="list-style-type: none"> • Information obtained during the investigation does not support the allegation. • The caseworker determines that due to the child's age or developmental level, emotional abuse is not likely or able to be measured. • There is no observable, measurable impact to the child. | <ul style="list-style-type: none"> • Information obtained during the investigation does not support the allegation. • The caseworker determines that due to the child's age or developmental level, emotional abuse is not likely or able to be measured. • There is no observable, measurable impact to the child. |

For more information on the Disposition Guidelines for Domestic Violence contact:

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