

RUBBING SALT IN THE WOUND: COURTS REQUIRING A VICTIM TO PAY ALIMONY TO THEIR ABUSER

ABSTRACT

By 1920, domestic violence was declared illegal in all 50 states. Beginning with the “Battered Women’s Movement” and the development of women’s shelters, domestic violence awareness encouraged legal changes that improved police responses, prosecutorial decisions, and victim resources. Nonetheless, there are many misconceptions surrounding the dynamics of domestic violence. While many articles focus on the physical and mental abuse suffered by a victim of domestic violence, abusers also routinely sabotage their partner’s economic mobility to keep them dependent. Recently, financial abuse has received more scholarly interest when California enacted legislation disqualifying alimony payments from survivors to abusers.

Iowa state legislatures have failed to implement proper laws to protect survivors of domestic violence. This Note will address the evolving dynamics of domestic violence with a specific focus on understanding the various types of abusers and the tactics of financial abuse used. By surveying the current alimony statutes in Iowa and identifying the flaw of disregarding domestic violence when awarding alimony, opportunities for its revision will be revealed. Ultimately, this Note calls for legislative action to consider domestic violence when determining an alimony award.

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I. INTRODUCTION

In 2019, Andrea Mann was ordered by an Iowa district court to pay her now ex-husband \$2,395 per month in spousal support.¹ The district court found Andrea's annual income was more than triple the amount of her husband's earning capacity, she had a college degree while he did not, and the two were married for 16 years.² Andrea was a self-made woman—she put herself through college, received promotions at her job, and took care of the children.³ Her husband owned a lawn mowing business but barely worked—and when he did, he failed to bill clients.⁴ To make matters worse, Andrea was a victim of domestic violence.⁵ Andrea's case made it all the way to the Iowa Supreme Court, where the court held that “spousal abuse is not relevant on the question of alimony.”⁶ Lucky for Andrea, the court determined her husband had not sacrificed his economic opportunities to manage the household, provide domestic services for the family, or help her through school.⁷ But what if he had? Had Andrea's husband done just one

1. *In re Marriage of Mann*, No. 18-1910, 2019 WL 5792673, at *1 (Iowa Ct. App. Nov. 6, 2019), *aff'd in part, rev'd in part*, 943 N.W.2d 15 (Iowa 2020).

2. *Id.* at *1–4.

3. *In re Marriage of Mann*, 943 N.W.2d at 22.

4. *Id.* at 17.

5. *Id.* at 20.

6. *Id.*

7. *Id.* at 22.

of those things, the court would have upheld the district court's ruling.⁸ Andrea would have been court ordered to pay her abuser every month.⁹ She would have been punished for leaving him.

Countless stories like Andrea's exist as a result of the Iowa legislature's failure to address domestic violence in their alimony statute. Andrea was lucky, but the next victim may not be. This Note will shine a light on this flaw in Iowa's alimony statute by first defining domestic violence in Part II. Part III will discuss the evolution of domestic violence—including the legal and societal changes in the approach to domestic violence cases. Part IV will analyze varying types of abusers, which inevitably lead the victim to suffer from "Battered Woman Syndrome."¹⁰ Part V assesses Iowa's alimony statute and describes the state's "no fault" approach. Part VI examines California's recent alimony legislation. Part VII addresses the impact of California's legislation and calls for the Iowa legislature to take action and bring necessary reform to the current Iowa alimony statute.

II. WHAT IS DOMESTIC VIOLENCE?

There is not a single definition of domestic violence, nor a single outcome resulting from domestic violence. Various terms have been used to describe it which may include family violence, domestic assault, battered women, and wife abuse.¹¹ Domestic violence generally refers to "a pattern of coercive, controlling behavior . . ."¹² Physical violence, psychological abuse, and financial harm are all common forms of domestic violence.¹³ Additionally, although the gender of an abuser and victim may vary, for the purposes of this Note, domestic violence will be defined as some form of

8. *See id.* at 23 (discussing the factors of traditional alimony).

9. *See id.*

10. Battered Woman Syndrome refers to the "psychological symptoms [that] develop in some women who are victims of physical, sexual, and psychological abuse, making it difficult for them to regain control." Lenore E. Walker, *Battered Woman Syndrome*, PSYCHIATRIC TIMES (July 7, 2009), <https://www.psychiatristimes.com/view/battered-woman-syndrome> [https://perma.cc/3U83-J6ZZ].

11. *See, e.g., The Lingo of Domestic Violence*, DOMESTICSHELTERS (Feb. 8, 2015), <https://www.domesticshelters.org/articles/identifying-abuse/the-lingo-of-domestic-violence> [https://perma.cc/RH5R-69XA].

12. *What is Domestic Violence?*, CTR. FOR FAM. JUST., <https://centerforfamilyjustice.org/faq/domestic-violence/> [https://perma.cc/Q4FK-KXLP].

13. *Id.*

physical, psychological, or financial abuse “perpetrated against women by male partners as part of a systemic pattern of dominance and control.”¹⁴ Much of what occurs in domestic violence situations is counterintuitive. We assume someone who loves another will not intentionally harm them, yet this is not the case. Researchers have attempted to understand why domestic violence occurs.¹⁵ While initially many researchers envisioned offenders to be “antisocial, maladaptive, or otherwise psychopathic,” other researchers determined only 10 percent of domestic violence is due to mental disorders.¹⁶ Researchers now recommend that examinations of domestic violence include “investigation of the sequencing of violence, the intent of perpetrators, the meanings of violent conduct to the victims, injuries, the impact of cost of the violence on victims, and the context of the abuse.”¹⁷ Essentially, studies reveal men batter to attain power and control over their victim’s life.¹⁸ This pattern of abuse and violent behavior can be understood by examining the “Power and Control Wheel”—which is now widely used and discussed later in this Note.¹⁹

III. THE EVOLUTION OF THE RESPONSES AND ATTITUDES TOWARD DOMESTIC VIOLENCE IN THE UNITED STATES

A. *History of Domestic Violence*

Although domestic violence was declared illegal in all states by 1920, domestic violence incidents were still largely ignored.²⁰ In the United States, police either ignored domestic violence calls altogether or delayed responding until the incident had essentially concluded because many viewed domestic violence as a private family matter.²¹ Beginning with the Battered Women’s Movement in the 1970s, along with highly publicized

14. BARBARA J. HART & ANDREW R. KLEIN, PRACTICAL IMPLICATIONS OF CURRENT INTIMATE PARTNER VIOLENCE RESEARCH FOR VICTIM ADVOCATES AND SERVICE PROVIDERS 12 (2013), <https://www.ncjrs.gov/pdffiles1/nij/grants/244348.pdf> [<https://perma.cc/C4XH-5VCP>].

15. See, e.g., *id.* at 12–13 (discussing various studies and theories).

16. *Id.* at 12.

17. *Id.* at 14.

18. *Id.* at 14–15.

19. See *infra* Part IV.

20. Cheryl Hanna, *No Right to Choose: Mandated Victim Participation in Domestic Violence Prosecutions*, 109 HARV. L. REV. 1849, 1857 (1996).

21. Joan Zorza, *The Criminal Law of Misdemeanor Domestic Violence, 1970–1990*, 83 J. CRIM. L. & CRIMINOLOGY 46, 47 (1992).

cases, society has slowly changed its viewpoint on domestic violence.²² While an in-depth review of the Battered Women's Movement is outside the scope of this Note, the movement was the first resistance to violence against women.²³ The movement sought to eliminate the right of men to abuse their wives and led to the first battered women's shelters and crisis centers.²⁴ Throughout the 1970s and 1980s, shelters aimed to increase public awareness on the issue of domestic violence and provided resources for victims.²⁵ As a result, the Battered Women's Movement began to shift the stigma away from victims blaming themselves for the abuse.²⁶ Today, domestic abuse has become a public topic, leading to political action and academic research.²⁷

B. Tracey Thurman Case

On the cusp of the Battered Women's Movement, a legal action was brought by a victim against the city and police department of Torrington, Connecticut for their nonperformance of official duties when a wife's estranged husband threatened and assaulted her.²⁸ The victim's name was Tracey Thurman.²⁹ Her husband had physically attacked her multiple times and made "repeated threats upon her life and the life of her child."³⁰ When she attempted to file complaints, the police department ignored them.³¹ For two years, Tracey had notified the police of her abuser's violence—and for two years the police failed to act.³² The department's inaction allowed for Tracey's estranged husband to stab her repeatedly in the chest, neck, and

22. *Id.* at 53–60.

23. *See id.*

24. *Id.* at 53.

25. *Id.*; *The History and Origin of Women's Sheltering*, UN WOMEN (Sept. 14, 2012), <https://www.endvawnow.org/en/articles/1368-the-history-and-origin-of-womens-sheltering.html> [<https://perma.cc/565K-E9KP>].

26. *See Zorza, supra* note 21, at 53. *But see id.* at 72 (noting "research seems intent on returning to the old do-nothing or even blame-the-victim practices"); Alice Twining, *Beyond Victim Blaming: Feminist Therapy and Battered Women*, IN OUR VISION, Winter 1991, at 1, 4, <https://vawnet.org/sites/default/files/assets/files/2016-09/FeministTherapy.pdf> [<https://perma.cc/AXR9-NUL6>] ("In recent years, feminist therapists have begun to criticize therapeutic models that re-victimize battered women.").

27. *The History and Origin of Women's Sheltering, supra* note 25.

28. *Thurman v. City of Torrington*, 595 F. Supp. 1521, 1524 (D. Conn. 1984).

29. *Id.*

30. *Id.* at 1524–25.

31. *Id.*

32. *Id.* at 1524–25, 1527.

throat.³³ In accordance with the Battered Women's Movement, the court opined that the police officers should be held accountable for their deliberate indifference of their duty to protect the rights of battered women.³⁴ This led the court to hold the police department's policy of nonintervention and nonarrest in domestic violence cases was improper.³⁵ Ultimately, a jury awarded Tracey \$2.3 million in compensatory damages.³⁶

C. Changing the Attitudes of Police and Prosecutors

As a result of the national attention, police responses to domestic violence changed.³⁷ Police departments started to receive additional training and education to treat domestic violence as a public offense.³⁸ If local police departments failed to prepare their officers to deal with complaints of domestic violence, they would suffer severe financial liability, as seen in *Thurman*.³⁹ Police training sparked further research on how to best handle domestic violence disputes.⁴⁰ Most relevant was a Minneapolis study comparing the deterrent effects of arresting the suspect, mediating the dispute, and requiring the batterer to leave the house for eight hours.⁴¹ The results overwhelmingly supported the conclusion that arresting the suspect most effectively deterred subsequent violence.⁴² Therefore, police officers initiated aggressive arrest policies.⁴³ Today, many jurisdictions, including

33. *Id.* at 1525–26.

34. *See id.* at 1530–31.

35. *See id.*

36. Nat Hentoff, *Battered Wives and the 14th Amendment*, WASH. POST (July 27, 1985), <https://www.washingtonpost.com/archive/politics/1985/07/27/battered-wives-and-the-14th-amendment/5905acd7-6c71-4676-a739-eaeef4873713/> [https://perma.cc/TKB2-2CGY]. “[A]fter an appeal, the police settled out of court for \$1.9 million.” Patricia Brennan, *‘A Cry for Help’*, WASH. POST (Oct. 1, 1989), <https://www.washingtonpost.com/archive/lifestyle/tv/1989/10/01/a-cry-for-help/b6d4472a-51a1-4c09-9781-f1805a20cd5f/> [https://perma.cc/N9CH-YVHC].

37. Hanna, *supra* note 20, at 1858 (“Media attention surrounding the case made domestic violence policing a national issue. After the Thurman case, police departments concerned about the likelihood of similar lawsuits began to rethink their policies.”).

38. *See id.* at 1859.

39. *Id.* at 1858; *see generally Thurman*, 595 F. Supp. 1521.

40. *See* Hanna, *supra* note 20, at 1858–59.

41. *Id.* at 1859 (citing Richard A. Berk & Lawrence W. Sherman, *The Specific Deterrent Effects of Arrest for Domestic Assault*, 49 AM. SOCIO. REV. 261, 261, 263 (1984)).

42. *Id.* (citing Berk & Sherman, *supra* note 41).

43. *Id.* at 1858–60.

Iowa, have mandatory arrest statutes when police officers believe domestic violence has occurred.⁴⁴

Once arrested, prosecutors possess almost complete discretion whether to bring charges.⁴⁵ Because domestic violence is now viewed as a social crime, the prosecutor does not represent the victim—rather they represent the state.⁴⁶ While victims are not forced to participate in the criminal process, they also do not have a say in whether a criminal action is brought.⁴⁷ This leads to extreme difficulties because the prosecution must make their decisions about charging the abuser based on the likelihood of conviction.⁴⁸ However, some prosecutors claim that “[v]ictim noncooperation, reluctance, or outright refusal to proceed” with the prosecution prevent them from bringing charges.⁴⁹ With only one witness to the crime, prosecutors often consider domestic violence cases too difficult to prove, and therefore fail to initiate domestic violence charges.⁵⁰

44. *Id.* at 1860. The Iowa Code mandates a police officer arrest the person whom the police officer believes to be the primary physical aggressor. IOWA CODE § 236.12(3) (2021). “In identifying the primary physical aggressor, a peace officer shall consider the need to protect victims of domestic abuse, the relative degree of injury or fear inflicted on the persons involved, and any history of domestic abuse between the persons involved.” *Id.*

45. Donna Wills, *Domestic Violence: The Case for Aggressive Prosecution*, 7 UCLA WOMEN’S L.J. 173, 173 (1997) (“Prosecutors throughout the country . . . have begun taking a more aggressive stance towards domestic violence prosecutions by instituting a ‘no drop’ or ‘no dismissal’ policy.”).

46. *Id.* at 174 (“The harm caused by this violence refuses to be neatly confined between the abuser and the victim. Rather, domestic violence impacts everyone: children, neighbors, extended family, the workplace, hospital emergency rooms, good Samaritans who are killed while trying to intervene, and the death row inmates who cite it as a reason not to be killed. The State has a legitimate interest in maintaining public safety, especially by ensuring that domestic violence offenders are not allowed to flourish unabated.”).

47. *Id.* at 173–74. These aggressive prosecution policies are a response to victims routinely refusing to prosecute. *See id.* at 177 (“Prosecutors and the courts have taken a long time to accept that a domestic violence victim’s ‘refusal to press charges’ is the norm in domestic violence prosecutions.”).

48. *See* Hanna, *supra* note 20, at 1906.

49. *Id.* at 1860.

50. *Id.* at 1899.

D. Prosecution Difficulties

The negative attitudes prosecutors may have toward domestic violence prosecutions are misplaced and likely stem from a lack of understanding the dynamics of domestic violence.⁵¹ Those unfamiliar with the theories of domestic violence perceive domestic violence victims as weak or responsible for the abuse.⁵² Furthermore, fact finders, whether a judge or jury, misperceive the seriousness of the violence or excuse the abuser's behavior because the victim remained in the relationship.⁵³ Another difficulty in bringing domestic violence prosecutions is understanding witness credibility.⁵⁴ Legally, credibility refers to "[t]he quality that makes something (as a witness or some evidence) worthy of belief."⁵⁵ Victims often struggle with credibility, and this can create a barrier to jurors and judges in understanding typical victim behavior and testimony.⁵⁶ Victims are not making up their story—rather many victims are suffering from a form of Post-Traumatic Stress Disorder called "Battered Woman Syndrome," which is discussed in depth later in this Note.⁵⁷ In short, the trauma of domestic violence results in victims displaying scattered, dissociative behavior.⁵⁸ Additionally, "[t]he details of her story may change somewhat from interview to interview."⁵⁹ However, this does not mean the victim is not credible.⁶⁰ Instead, it is imperative for prosecutors to understand the effect that the victim's trauma has on their memory.⁶¹ A study completed to examine trial strategies in domestic violence cases supported the conclusion

51. See CAROLYN COPPS HARTLEY & ROXANN RYAN, PROSECUTION STRATEGIES IN DOMESTIC VIOLENCE FELONIES: ANTICIPATING AND MEETING DEFENSE CLAIMS, FINAL REPORT 6 (Apr. 1998, rev. Oct. 1998) [hereinafter COPPS & RYAN, MEETING DEFENSE CLAIMS] (discussing how factfinders are often misinformed about domestic violence).

52. *Id.*

53. *Id.*

54. See *id.* at 7–9.

55. *Credibility*, BLACK'S LAW DICTIONARY (11th ed. 2019).

56. COPPS & RYAN, MEETING DEFENSE CLAIMS, *supra* note 51, at 8–9.

57. See Margaret A. Rosenbaum, *The Prosecution of Domestic Violence: An Overview*, FLA. BAR J., Oct. 1994, at 52, 54; *infra* Part IV.

58. Rosenbaum, *supra* note 57, at 54.

59. *Id.*

60. *Id.*

61. See *id.* ("Battered women are notoriously poor historians, and, as a result of their trauma, may have nightmares, flashbacks, crying episodes, and blank stares. There may be gaps of memory and paranoid-like behavior.").

that jurors organize information in the form of a story.⁶² The basis of the “story model” is the first side to tell a strong story of violence will win.⁶³ Because jurors may not have personal experience with domestic violence, the prosecution must focus on the quality of the story they tell.⁶⁴ To access the victim’s memories, it is best to prompt her by referencing locations, sounds, or feelings.⁶⁵ By using action words and repetition in questioning the victim, she will be able to better recall the violence.⁶⁶

IV. UNDERSTANDING THE COMPLEX NATURE AND DYNAMICS OF DOMESTIC VIOLENCE

A. *The Power and Control Wheel*

It is important to note in the previous definition of domestic violence that the abuse is not limited to physical assault.⁶⁷ The Power and Control Wheel was developed as a tool to assist in identifying abusive behaviors.⁶⁸ The outer circle of the ring represents physical and sexual violence, whereas the inside of the ring divides abusive behavior into eight categories: using intimidation; using emotional abuse; using isolation; minimizing, denying and blaming; using children; using male privilege; using economic abuse; and using coercion and threats.⁶⁹ The categories inside the ring represent subtle behaviors used by batterers that are not generally illegal nor physically

62. COPPS & RYAN, MEETING DEFENSE CLAIMS, *supra* note 51, at 113 (citing Nancy Pennington & Reid Hastie, *The Story Model for Juror Decision Making*, in *INSIDE THE JUROR: THE PSYCHOLOGY OF JUROR DECISION MAKING* 209 (Reid Hastie ed., 1993)).

63. *See id.* at 108–13 (discussing the story model posited by Pennington and Hastie).

64. *Id.* at 116–22.

65. CAROLYN COPPS HARTLEY & ROXANN RYAN, PROSECUTION STRATEGIES IN DOMESTIC VIOLENCE FELONIES: ANTICIPATING AND MEETING DEFENSE CLAIMS 54–55 (1998).

66. *Id.*

67. *See supra* Part II.

68. *Understanding the Power and Control Wheel*, DOMESTIC ABUSE INTERVENTION PROGRAMS, <https://www.theduluthmodel.org/wheels/faqs-about-the-wheels/> [https://perma.cc/J3VY-P5JY].

69. *Power and Control Wheel*, DOMESTIC ABUSE INTERVENTION PROGRAMS, <https://www.theduluthmodel.org/wp-content/uploads/2017/03/PowerandControl.pdf> [https://perma.cc/M4CR-AKS2].

abusive.⁷⁰ However, they are continual, and use of these subtle inner ring behaviors often leads to physical violence, represented by the outer ring.⁷¹

B. *Why Not Just Leave?*

The next step in understanding the dynamics of abuse requires an examination into why victims do not leave their abusers. As mentioned, batterers use physical and psychological tactics listed in the Power and Control Wheel to instill fear of future violence.⁷² It is important to recognize the reasons women do not leave—and the reason they may return—is their legitimate concern for their safety, both short-term and long-term.⁷³ In regard to the outer physical violence ring, victims must be concerned with the idea of “separation escalation.”⁷⁴ Abusers can be extremely jealous and possess an obsession with the victim.⁷⁵ They may feel a sense of ownership, and thus, betrayal when the victim leaves.⁷⁶ Women are most at risk of murder if or when they decide to leave—the reason the violence escalates dramatically is because the abuser feels they have lost all power and control over their victim.⁷⁷ Even if one were to ignore the potential increase in physical violence, the victim will also need resources that she may not have.⁷⁸ Because abusers engage in extreme control over the victim’s life, she likely has been isolated from family or other support options.⁷⁹ Further, since the

70. *Power and Control Break Free from Abuse*, NAT’L DOMESTIC VIOLENCE HOTLINE, <https://www.thehotline.org/identify-abuse/power-and-control/> [<https://perma.cc/D8WU-4XDC>].

71. *Id.*

72. *Id.*

73. See, e.g., Clare Murphy, *Tactic #8—Separation Abuse*, SPEAKOUTLOUD, <https://speakoutloud.net/intimate-partner-abuse/post-separation-abuse> [<https://perma.cc/6MWS-P5WX>] [hereinafter Murphy, *Separation Abuse*] (discussing examples of pre-and-post separation abuse).

74. *Id.* (discussing post-separation abuse tactics).

75. Jennifer Gentile Long & Viktoria Kristiansson, *Taking A Process-Oriented Approach to Domestic Violence Prosecutions*, 41 PROSECUTOR, Sept./Oct. 2007, at 14, 16.

76. *Id.*

77. Murphy, *Separation Abuse*, *supra* note 73 (citing Martha R. Mahoney, *Legal Images of Battered Women: Redefining the Issue of Separation*, 90 MICH. L. REV. 1, 65 (1991)).

78. Long & Kristiansson, *supra* note 75, at 15.

79. Clare Murphy, *Tactic #4—Isolation*, SPEAKOUTLOUD, <https://speakoutloud.net/intimate-partner-abuse/isolation-tactic-of-control> [<https://perma.cc/92PY-XYLY>].

abuser has taken control of most aspects of the couple's life, the victim is left with few resources to live independently.⁸⁰ Therefore, if the victim chooses or attempts to leave, she may be at risk of losing her housing, her employment, custody of her children, financial support for herself and her children, or her immigration status, and may even be prosecuted herself.⁸¹ Thus, it is not conducive to tell a domestic violence victim to "just leave."

C. Understanding the Different Types of Abusers

Research by Lundy Bancroft has shown that "[i]t's so powerful for abused women just to have things to call what's being done [to them]."⁸² Categorizing the various types of abusers can not only help victims sort through the type of abuse they are experiencing but can help society recognize there is not a single type of abuser.⁸³ While Bancroft's book is far more detailed, almost all abusers can fit into 10 categories.⁸⁴ The categories include:

1. The Demand Man. This type of abuser demands emotional support, favors, caretaking, and sexual attention, is well out of proportion to his contributions, and exaggerates and overvalues his own contributions.⁸⁵
2. Mr. Right. This type of abuser is the authority on every subject, uses his superiority to get what he wants, becomes an expert on his partner's life and how she should lead it, and is especially

80. Clare Murphy, *Tactic #12—Economic Abuse*, SPEAKOUTLOUD, <https://speakoutloud.net/intimate-partner-abuse/economic-abuse> [https://perma.cc/BSH9-NMFW]; Long & Kristiansson, *supra* note 75, at 14–15.

81. Long & Kristiansson, *supra* note 75, at 15.

82. Amanda Kippert, *The Frightening Roles Abusers Can Play*, DOMESTICSHELTERS (Mar. 27, 2019), <https://www.domesticshelters.org/articles/identifying-abuse/the-frightening-roles-abusers-can-play> [https://perma.cc/Y3P9-4VXS]. Kippert's article summarizes the book *Why Does He Do That? Inside the Minds of Angry and Controlling Men* written by Lundy Bancroft in 2002. *Id.* Bancroft has spent nearly three decades studying and writing about domestic abuse. *Id.* He trains professionals on the dynamics of abuse and how to support, heal, and empower abused women. LUNDY BANCROFT, <https://lundybancroft.com/> [https://perma.cc/W75F-2PBA].

83. LUNDY BANCROFT, *WHY DOES HE DO THAT? INSIDE THE MINDS OF ANGRY AND CONTROLLING MEN* 77 (Penguin Grp. 2002).

84. *Id.*

85. *Id.* at 78–80.

knowledgeable about her faults.⁸⁶

3. The Water Torturer. This type of abuser proves that anger does not cause abuse: he can assault his partner without even raising his voice, tends to stay calm in arguments, he takes things she says and twists them beyond recognition to make her appear absurd, and will do so in front of other people.⁸⁷
4. The Drill Sergeant. This type of abuser runs his partner's life in every way he can, isolates her from others, is extremely possessive, monitors her movements and interactions, makes sexually degrading comments, is fanatically jealous, and is almost always physically violent at some point.⁸⁸
5. Mr. Sensitive. This type of abuser is soft spoken, gentle, and supportive. When he is not being abusive, he will openly share his insecurities, but he blames his partner for anything he is dissatisfied with in his own life and may eventually exhibit a mean side that no one ever sees.⁸⁹
6. The Player. This type of abuser is good looking and seems head over heels in love at the beginning of the relationship, however he begins flirting with other women and may claim fear of commitment. Additionally, he gets satisfaction from exploiting women.⁹⁰
7. Rambo. This type of abuser is aggressive with everyone, not just his partner, gets a thrill out of the sensation of intimidating people, and strives to handle all life situations by subtly or overtly creating fear.⁹¹
8. The Victim. This type of abuser feeds on a woman's compassion and desire to feel that she can make a difference in his life, help overcome the unfairness he has experienced, and often describes his "mistreatment" by his previous partner.⁹²

86. *Id.* at 80–83.

87. *Id.* at 83–85.

88. *Id.* at 86–87.

89. *Id.* at 88–91.

90. *Id.* at 91–94.

91. *Id.* at 94–96.

92. *Id.* at 96–99.

9. The Terrorist. This type of abuser is highly controlling and extremely demanding, frequently reminding his partner that he could physically harm her—this abuse can be solely psychological aiming to paralyze the victim with fear but may escalate to physical violence.⁹³
10. The Mentally Ill or Addicted Abuser. This type of abuser is unique because most abusers do not have a mental illness or addiction, and if they do, it is not the cause of abuse—but some mental illness and addictions can increase the risk of violence and an abuser's reactions can be impacted by going on or off medication—but the lethality risk is a function of the mental illness in combination with abusive characteristics.⁹⁴

Bancroft attempts to provide “[a] sophisticated understanding of the mind of the abuser” to help victims understand what has been happening to them and to educate professionals on how to analyze and help articulate a victim's experience.⁹⁵ Abusers are master manipulators, and they have a full range of personality types, as evidenced above. Understanding the “pattern of cruelty, intimidation, and manipulation” is crucial in evaluating the level of abuse the victim is suffering from.⁹⁶

D. *The Cycle of Violence*

Although there are approximately 10 different types of abusers,⁹⁷ each will likely engage in a similar cycle of domestic violence.⁹⁸ Many victims describe their relationship in the following way: (1) the tension building phase, (2) the abusive incident, and (3) the honeymoon phase.⁹⁹ To summarize, the cycle begins with the victim “walking on eggshells”—the victim not knowing when their abuser will attack.¹⁰⁰ Next, the tension breaks,

93. *Id.* at 99–101.

94. *Id.* at 101–04.

95. Lundy Bancroft, *Understanding the Batterer in Custody and Visitation Disputes*, LUNDY BANCROFT (1998), <https://lundybancroft.com/articles/understanding-the-batterer-in-custody-and-visitation-disputes/> [https://perma.cc/95F3-EE4D].

96. *Id.*

97. *See supra* Part IV.C.

98. Jennifer Focht & Amanda Chu, *The Cycle of Domestic Violence*, NAT'L CTR. FOR HEALTH RSCH., <http://www.center4research.org/the-cycle-of-domestic-violence/> [https://perma.cc/L7AV-3B5T].

99. *Id.*

100. *Id.*

and a violent abusive incident occurs.¹⁰¹ Depending on the relationship and type of abuser, this attack may be physical, psychological, or financial through the use of threats and degrading or manipulative behavior.¹⁰² Finally, the honeymoon phase—the abuser may apologize or try to “make up” for the abuse.¹⁰³ He may promise to change and convince the victim to stay.¹⁰⁴ “Once the honeymoon phase is over, the tension-building phase begins again” before another abusive incident results.¹⁰⁵

E. *Understanding the Battered Woman Syndrome*

This cycle of abuse leads victims to experience trauma, and the oppressive nature of abuse impacts all aspects of the victim’s life.¹⁰⁶ Experts have found a couple must go through the battering cycle at least twice before classifying the woman as suffering from Battered Woman Syndrome.¹⁰⁷ Any woman may experience violence one time, but Battered Woman Syndrome develops when there is a pattern of violence.¹⁰⁸ According to psychologist Dr. Lenore Walker, founder of the Domestic Violence Institute, a battered woman is a woman who is “repeatedly subject to any forceful physical behavior or psychological behavior by a man in order to coerce her to do something he wants her to do without concern for her rights.”¹⁰⁹

F. *The Focus on Economic Abuse*

Typically, individuals that hear “domestic violence” automatically assume physical abuse.¹¹⁰ However, before an abuser escalates to other forms of abuse—either physical or psychological—financial abuse can often

101. *Id.*

102. *Id.*

103. *Id.*

104. *Id.*

105. *Id.*

106. ISABELL SCOTT & NANCY MCKENNA, DOMESTIC VIOLENCE PRACTICE AND PROCEDURE § 8:58 (Thompson Reuters 2021).

107. *Id.* (quoting LENORE E. WALKER, THE BATTERED WOMAN xv (Harper & Row 1979)).

108. *Id.* (quoting WALKER, *supra* note 107).

109. *Id.* (quoting WALKER, *supra* note 107).

110. See Sandra Knispel, *What is Intimate Partner Violence? It's Not Just Physical Abuse*, UNIV. OF ROCHESTER (Mar. 23, 2022), <https://www.rochester.edu/newscenter/what-is-intimate-partner-violence-domestic-violence-516342/> [https://perma.cc/BNP8-9T34].

be the first sign of domestic violence.¹¹¹ Financial abuse may begin subtly, where the abuser asks to borrow money or offers to take control of paying the bills.¹¹² Slowly, the abuser may escalate until they control every bank account and credit card.¹¹³ To maintain control over their victims, abusers may prevent their victim from going to work, sabotage the victim's employment, or demand that the victim quit her job.¹¹⁴ With damaged credit, decreased income, and potentially lacking recent work experience, victims struggle to become independent.¹¹⁵ Therefore, "[e]conomic abuse is a very common reason victims stay in abusive relationships."¹¹⁶

Financial abuse may also manifest in a form that does not reduce earning power for the victim. For example, in a situation where the abusive partner "lacks financial resources or employment, they may use economically abusive tactics to reestablish power at home."¹¹⁷ In fact, research done by Michigan State University suggests that "when a woman's economic status is greater than her partner's, she may be at an increased risk of domestic abuse."¹¹⁸ Abusive partners may demand their victim hand over their paycheck, deprive them of access to their money, or spend the money without the victim's consent.¹¹⁹ Thus, maintaining control over their victim and the victim's resources.¹²⁰

In the United States, it is contrary to public policy to place someone in a position of needing government assistance.¹²¹ A court will award alimony

111. *See id.*

112. *See Quick Guide: Economic and Financial Abuse*, NAT'L COAL. AGAINST DOMESTIC VIOLENCE: BLOG (Apr. 12, 2017), <https://ncadv.org/blog/posts/quick-guide-economic-and-financial-abuse> [<https://perma.cc/539W-BC92>].

113. *See id.*

114. *Id.*

115. *Id.*

116. *Id.*

117. BER Staff, *Economic Abuse*, BERKELEY ECON. REV. (Apr. 2, 2019), <https://econreview.berkeley.edu/economic-abuse/> [<https://perma.cc/K7FA-HAA5>].

118. *Id.*

119. *Id.*

120. *Id.*

121. *See* ELAINE SORENSON, U.S. DEP'T OF HEALTH & HUM. SERVS., THE CHILD SUPPORT PROGRAM IS A GOOD INVESTMENT 8, 14–15 (2016), https://www.acf.hhs.gov/sites/default/files/documents/ocse/sbtn_csp_is_a_good_investment.pdf [<https://perma.cc/64EQ-696V>] (explaining how child support reduces public assistance costs); *see generally* Jill C. Engle, *Promoting the General Welfare: Legal Reform to Lift Women and Children in the United States Out of Poverty*, 16 J. GENDER

to a spouse that relied on the other spouse for financial support.¹²² As a result, when the woman's economic status is greater and she chooses to leave her abuser, this may result in the court ordering the victim to pay alimony to her abuser.¹²³

V. EXAMINATION OF IOWA'S ALIMONY STATUTE

A. *Factors to Consider in Awarding Alimony*

To decide whether alimony should be awarded to a spouse, courts apply Iowa's current alimony statute, codified at Iowa Code section 598.21A(1).¹²⁴

[A] court may grant an order requiring [alimony] payments . . . for a limited or indefinite length of time after considering all of the following:

The length of the marriage.

The age and physical and emotional health of the parties.

The distribution of property made pursuant to section 598.21.

The educational level of each party at the time of marriage and at the time the action is commenced.

The earning capacity of the party seeking maintenance, including educational background, training, employment skills, work experience, length of absence from the job market, responsibilities for children under either an award of custody or physical care, and the time and expense necessary to acquire sufficient education or training to enable the party to find appropriate employment.

The feasibility of the party seeking maintenance becoming self-supporting at a standard of living reasonably comparable to that

RACE & JUST. 1 (2013) (calling "for radical legal reform to nationalize an alimony system as an economic safety net for divorcing women and their children").

122. See, e.g., *In re Marriage of Becker*, 756 N.W.2d 822, 825–28 (Iowa 2008) (awarding a dependent spouse thousands per month in partly rehabilitative spousal support).

123. See, e.g., *In re Marriage of Mann*, No. 18-1910, 2019 WL 5792673, at *4 (Iowa Ct. App. 2019), *aff'd in part, rev'd in part*, 943 N.W.2d 15 (Iowa 2020); see *supra* Part I (discussing *In re Marriage of Mann*).

124. See, e.g., *In re Marriage of Gust*, 858 N.W.2d 402, 407–08 (Iowa 2015); IOWA CODE § 598.21A(1) (2021).

enjoyed during the marriage, and the length of time necessary to achieve this goal.

The tax consequences to each party.

Any mutual agreement made by the parties concerning financial or service contributions by one party with the expectation of future reciprocation or compensation by the other party.

The provisions of an antenuptial agreement.

Other factors the court may determine to be relevant in an individual case.¹²⁵

B. *Three Types of Alimony*

Generally, alimony is defined as “[a] court-ordered allowance that one spouse pays to the other spouse for maintenance and support while they are separated, while they are involved in a matrimonial lawsuit, or after they are divorced”¹²⁶

When weighing the factors listed in Iowa’s alimony statute, the court will decide whether alimony should be awarded.¹²⁷ The Iowa Supreme Court has identified three kinds of alimony support: traditional, rehabilitative, and reimbursement.¹²⁸ Traditional alimony “provide[s] the receiving spouse with support comparable to what he or she would receive if the marriage continued.”¹²⁹ An order for traditional alimony is of unlimited or indefinite duration, so long as the receiving spouse is without sufficient support.¹³⁰ Rehabilitative support is “a way of supporting an economically dependent spouse through a limited period of re-education or retraining following divorce, thereby creating incentive and opportunity for that spouse to

125. *In re Marriage of Gust*, 858 N.W.2d at 407 (citing IOWA CODE § 598.21A(1)(a)–(j) (2011)).

126. *Alimony*, BLACK’S LAW DICTIONARY (11th ed. 2019).

127. *In re Marriage of Gust*, 858 N.W.2d at 407, 418; IOWA CODE § 598.21A(1) (2021).

128. *In re Marriage of Gust*, 858 N.W.2d at 408; *In re Marriage of Becker*, 756 N.W.2d 822, 826 (Iowa 2008); *In re Marriage of Francis*, 442 N.W.2d 59, 63–64 (Iowa 1989).

129. *In re Marriage of Gust*, 858 N.W.2d at 408 (quoting *In re Marriage of Hettinga*, 574 N.W.2d 920, 922 (Iowa Ct. App. 1997)).

130. *Id.* (citing *In re Marriage of Francis*, 756 N.W.2d at 64).

become self-supporting.”¹³¹ Rehabilitative alimony would be considered if one spouse puts their career on hold during the marriage but wishes to re-enter the workforce after the divorce and requires some type of education or training to do so.¹³² Whereas reimbursement support “allows the spouse receiving the support to share in the other spouse’s future earnings in exchange for the receiving spouse’s contributions to the source of that income.”¹³³ Reimbursement alimony would apply in a situation where instead of putting a career on hold, one spouse worked to support the other spouse while he or she was advancing their education or training to improve their earning capacity.¹³⁴

C. No Fault Divorce System

Notice, domestic violence is not a factor to be considered in connection with the question of whether to award a spouse traditional, rehabilitative, or reimbursement alimony.¹³⁵ On July 1, 1970, the Iowa legislature revised their divorce statute and eliminated the previously recognized categories of fault.¹³⁶ The revision prevented courts from labeling one spouse as innocent and the other as guilty in divorce proceedings.¹³⁷ As a result, Iowa is considered a no fault state, meaning the legal grounds for dissolution of marriage results from a “breakdown of the marriage relationship to the extent that the legitimate objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved.”¹³⁸ Due to this change, evidence of fault for the breakdown of a marriage is inadmissible in divorce proceedings and will not be considered by the court when awarding property, alimony, or child support.¹³⁹ The legislature reasoned that eliminating the concept of fault and substituting breakdown of the marriage as the basis for a divorce proceeding would

131. *In re Marriage of Becker*, 756 N.W.2d at 826 (quoting *In re Marriage of Francis*, 442 N.W.2d at 63).

132. *Id.* (quoting *In re Marriage of Francis*, 442 N.W.2d at 63).

133. *Id.* (citing *In re Marriage of Francis*, 442 N.W.2d at 64).

134. *In re Marriage of Francis*, 442 N.W.2d at 64.

135. IOWA CODE § 598.21A(1) (2021).

136. *In re Marriage of Williams*, 199 N.W.2d 339, 341 (Iowa 1972).

137. *Id.* at 344–45.

138. *Divorce or Dissolution of Marriage*, IOWA STATE BAR ASS’N, <https://www.iowabar.org/page/Divorce>; see also Iowa Code §§ 598.5, 598.17 (2021).

139. *In re Marriage of Williams*, 199 N.W.2d at 343–46.

opposing party to obtain a favorable outcome in the dissolution proceeding.¹⁴⁰

While the legislature's rationale is legitimate, extensive social science research and lived experiences in the 50 years since the adoption of the modern divorce law suggests that fault *should* be considered in divorce proceedings where there is evidence of domestic violence.¹⁴¹ The Iowa Supreme Court failed to recognize financial abuse as simply another manifestation of broader domestic violence when it expressly rejected domestic abuse as a factor in the question of whether to award alimony—which is a fundamental misunderstanding of the dynamics of abuse.¹⁴² Altering Iowa's alimony statute does not require the legislature to reenact pre-1970 at fault legislation.¹⁴³ Rather, Iowa should enact a rebuttable presumption that alimony not be provided to a party if that party has been convicted of domestic violence. This change would mirror recent legislation passed in California.¹⁴⁴

VI. EXAMINATION OF CALIFORNIA'S ALIMONY STATUTE

A. *Factors to be Considered in Ordering Alimony*

Effective January 1, 2020, California's legislature enacted a statute creating a rebuttable presumption disfavoring awarding temporary or permanent support to an abusive spouse.¹⁴⁵ In relevant part, the legislation reads:

(a) In a proceeding for dissolution of marriage where there is a criminal conviction for a domestic violence misdemeanor or a criminal conviction for a misdemeanor that results in a term of probation pursuant to Section 1203.097 of the Penal Code perpetrated by one spouse against the other spouse entered by the court within five years prior to the filing of the dissolution proceeding or during the course of

140. *Id.* at 343 (explaining how the Iowa legislature declined to follow the recommendation of the Iowa Divorce Laws Study Committee's report permitting the use of several fault-based grounds).

141. *See supra* Part III.

142. *See In re Marriage of Mann*, 943 N.W.2d 15, 20 (Iowa 2020) (“[S]pousal abuse is not relevant on the question of alimony.”).

143. *See generally In re Marriage of Williams*, 199 N.W.2d at 341, 343–46 (discussing the shift from fault to no fault).

144. *See In re Marriage of Mann*, 943 N.W.2d at 21 n.1 (citing CAL. FAM. CODE § 4325 (West 2020)).

145. FAM. § 4325.

the dissolution proceeding, there shall be a rebuttable presumption that the following shall apply:

(1) An award of spousal support to the convicted spouse from the injured spouse is prohibited.

....

(b) The court may consider documented evidence of a convicted spouse's history as a victim of domestic violence . . . perpetrated by the other spouse, or any other factors the court deems just and equitable, as conditions for rebutting this presumption.

(c) The rebuttable presumption created in this section may be rebutted by a preponderance of the evidence.¹⁴⁶

B. *Rebuttable Presumption*

Generally speaking, a rebuttable presumption is an assumption of fact made by a court which establishes a *prima facie* case.¹⁴⁷ “A presumption shifts the burden of production or persuasion to the opposing party, who can then attempt to overcome the presumption.”¹⁴⁸ In California Family Code § 4325, the legislature created a presumption in favor of the victim of domestic violence.¹⁴⁹ The victim will not be required to pay temporary or permanent support to the convicted spouse, so long as the convicted spouse does not rebut that presumption.¹⁵⁰ In effect, California is now allowing consideration of domestic violence in divorce proceedings, even though they remain a no fault divorce state.¹⁵¹

146. *Id.*

147. *Presumption*, BLACK'S LAW DICTIONARY (11th ed. 2019) (citing *rebuttable presumption* from 1852).

148. *Id.*

149. FAM. § 4325(a).

150. *Id.*

151. *Id.*; *Divorce in California*, JUD. BRANCH OF CAL., <https://www.courts.ca.gov/1032.htm?rdeLocaleAttr=en> [https://perma.cc/YY89-FY9C] (“No one has to prove someone did something wrong to cause the divorce (this is called no fault divorce).”).

VII. PROPOSAL

A. *Impact of California's Alimony Statute*

Requiring a victim of domestic violence to pay alimony to her abuser seems fundamentally unjust when considering the dynamics of abuse. The continued contact and communication required in alimony payments results in the victim being tied to her abuser, either temporarily or permanently.¹⁵² Barring alimony to abusers severs the tie between the victim and their abuser, thereby finally providing the victim with the opportunity to escape her tormentor.¹⁵³ The legislation may encourage victims to report the abuse sooner—keeping in mind that the presumption against paying an abuser alimony results only if the abuser has been convicted of domestic violence.¹⁵⁴ Section 4325 of the California Family Code creates a sense of equity and fairness—refusing to allow an abuser to rub salt in the victim's already open wound.¹⁵⁵ California has put a stop to abusers profiting off their victims.¹⁵⁶

Of course, there are obstacles to enacting a provision similar to section 4325. “Spouses may attempt to enhance their chances for an alimony award by pressing for a conviction for domestic violence when no violence has actually occurred, or when the prosecutor believes a conviction is unwarranted.”¹⁵⁷ The abuser may manipulate the situation and attempt to claim he too was a victim of domestic violence.¹⁵⁸ Additionally, spouses accused of domestic violence may feel pressured to enter a plea and negotiate an alimony award outside of court.¹⁵⁹ As noted, abusers are master manipulators, so it is difficult to weigh the potential disadvantages of enacting legislation similar to section 4325.¹⁶⁰ However, when one considers the unknown disadvantages versus continued injustice for survivors of domestic abuse, the unknown is far preferable.

152. Sarah Burkett, *Finding Fault and Making Reparations: Domestic Violence Conviction as a Limitation on Spousal Support Award*, 22 J. CONTEMP. LEGAL ISSUES 492, 492–43 (2015).

153. *Id.* at 497.

154. *Id.* at 494–95. See FAM. § 4325(a).

155. Burkett, *supra* note 152, at 497.

156. *Id.*

157. *Id.*

158. *Id.* at 495.

159. *Id.*

160. See *supra* Part IV.C.

B. *A Call for Legislative Change in Iowa*

There is a fundamental assumption couples will take care of one another in marriage—marriage “embodies the highest ideals of love, fidelity, devotion, sacrifice, and family. In forming a marital union, two people become something greater than they once were.”¹⁶¹ If an abuser has violated the fundamental emotional bond by abusing his spouse, then it would be profoundly unfair for the abuser to benefit in any way, especially financially. However, courts are inclined to grant alimony in situations where one spouse can afford to support the other, especially if this replaces the need for government assistance.¹⁶² Unfortunately, there is a stigma surrounding public dependency, causing individuals to be more critical of welfare practices.¹⁶³ Nonetheless, weighing the disadvantages of government assistance versus the social inequity of requiring a domestic violence victim to pay their abuser, the former is far more just. For these reasons, the Iowa legislature should be compelled to adopt a policy similar to California Family Code § 4325 and create a rebuttable presumption against requiring a victim to financially support her abuser.¹⁶⁴

VIII. CONCLUSION

Over the past several decades, the dynamics of domestic violence have become more widely understood.¹⁶⁵ Domestic violence is no longer thought of as a private crime, where a husband can treat his wife as he pleases inside their home.¹⁶⁶ Researchers have categorized various types of abusers and identified tactics of control.¹⁶⁷ They have worked to understand a victim’s survival strategy and the dilemmas a victim may face when leaving an abusive relationship.¹⁶⁸ Overall, domestic violence advocates and researchers have shined a light on the current domestic violence system.¹⁶⁹

161. *Obergefell v. Hodges*, 576 U.S. 644, 681 (2015).

162. *See, e.g., In re Marriage of Williams*, 199 N.W.2d 339, 346–48 (Iowa 1972); *In re Marriage of Gust*, 858 N.W.2d 402, 407–16 (Iowa 2015); *see supra* note 122 and accompanying text.

163. Joel F. Handler & Ellen Jane Hollingsworth, *Stigma, Privacy, and Other Attitudes of Welfare Recipients*, 22 STAN. L. REV. 1, 1–5, 13 (1969).

164. *See* CAL. FAM. CODE § 4325 (West 2020).

165. *See supra* Part III.

166. *See supra* Part III.

167. *See supra* Part IV.

168. *See supra* Part IV.

169. *See supra* Parts II, IV.

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Even so, the system is still broken. Forty-nine states allow abusers to collect alimony from victims they have abused.¹⁷⁰ The only state that prohibits this practice is California.¹⁷¹ When victims of domestic violence are finally able to leave their abusive relationship, courts should offer support and safety, not punishment for leaving. By ordering a domestic violence survivor to pay alimony to their abuser, courts are not only allowing, but providing for renewed contact between victims and their abusers. The current policy exacerbates the negative impact victims experience when leaving their abuser.

Iowa must do better. Iowa should join California in abolishing current alimony statutes that allow an abuser to collect alimony from their victim whom they have physically, psychologically, and financially abused. Iowa courts must provide better support to victims of domestic violence because “[o]ften it isn’t the initiating trauma that creates seemingly insurmountable pain, but the lack of support after.”¹⁷²

*Logan Namanny**

170. Amanda Nannarone, Comment, *Adding Insult to Injury: The Unconscionability of Alimony Payments from Domestic Violence Survivors to their Abusers*, 69 AM. U. L. REV. 253, 255–56, 275–77, 277 n.177 (2019).

171. *Id.* at 255; see CAL. FAM. CODE § 4325 (West 2020).

172. S. KELLEY HARREL, *READER’S COMPANION FOR GIFT OF THE DREAMTIME - AWAKENING TO THE DIVINITY OF TRAUMA* 166 (2d. ed., Smashwords ed., Soul Intent Arts 2012).

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