Family Law Survival Kit: Tipping the scales in favor of survivors

Workshop delivered at the Washington State Coalition Against Domestic Violence Conference
Presenters

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DV/MH Collaboration Project
The Domestic Violence and Mental Health Collaboration Project

DV Advocates

DV Survivors

MH Service Providers

Attorneys

DV/MH Collaboration Project
DOMESTIC VIOLENCE / COERCIVE CONTROL

Junk Science
Xenophobia
Abusive Litigation
Racism
Mental Health Stigma
Ableism
Flawed Beliefs
Access Barriers
Homophobia

Systemic Flaws
Sexism
DV/MH Collaboration Project
Mental Health Coercion Survey Results

- Gaslighting: 74%
- Called "crazy": 86%
- Threatened to report "craziness" to authorities: 50%
- Sought MH support: 53%

From The National Center on Domestic Violence, Trauma & Mental Health

DV/MH Collaboration Project
DV, Safety & Mental Health

MH Improves

Safety Improves

Safety Worsens

MH Worsens

DV/MH Collaboration Project
Family Law Toolkits

- Advocates
- Tools
- MH Providers
- Attorneys
- Survivors

DV/MH Collaboration Project
Scenario

DV/MH Collaboration Project
Scenario

What does Jill likely need from a mental health service provider?
Tools for MH Service Providers

DV Documentation Tips

Preparing DV Survivors For Custody Evaluations
# DV Documentation Tips Tool

<table>
<thead>
<tr>
<th>Documenting Do’s</th>
<th>Do Not’s</th>
<th>Why</th>
</tr>
</thead>
<tbody>
<tr>
<td>The client states or reports...</td>
<td>The client claims or alleges...</td>
<td>One is neutral while the other suggests a judgment or mistrust of the information.</td>
</tr>
<tr>
<td>The client experienced domestic violence perpetrated by________.</td>
<td>The client was involved in a domestic dispute OR patient shared abuse history.</td>
<td>One clearly describes who was harmed and who did the harm (relationship to client and name), when, where, and provides some details about the impact while the other minimizes the harm or leaves the source of the harm unclear. It is preferable to document specifics if you can.</td>
</tr>
<tr>
<td>Client reports that her partner, ________, strangled her last Tuesday in their bedroom after she objected to his yelling at their children. Red marks are visible on her neck and her voice sounds raspy.</td>
<td>The client was strangled.</td>
<td>Records should reflect client’s strengths and indicate the source of the client’s distress.</td>
</tr>
<tr>
<td>Client has positive coping skills</td>
<td>Client does yoga.</td>
<td></td>
</tr>
</tbody>
</table>
Scenario

What does Jill likely need from a domestic violence advocate?
To Tell or Not To Tell?  
Deciding Whether to Disclose MH Concerns in DVPO & Family Law Cases

When Protective Behaviors are Seen as Harmful
**To Tell or Not to Tell?**
Deciding Whether to Disclose Mental Health Concerns in Protection Order & Family Law Cases

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DV/MH Collaboration Project
To Tell or Not To Tell?
cards

**Possible Benefits of Choosing to Disclose Mental Health Concerns / Trauma Impact**

- In a legal proceeding, the court considers whether you are trustworthy and whether your story is likely to be true.

**Possible Risks of Choosing to Disclose Mental Health Concerns / Trauma Impact**

- **Lack of Credibility**
  - During the court case, your abusive partner may try to use the stigma of having mental health issues to prove that you cannot be believed and that your story of abuse is made up or in your imagination.
  - Parenting evaluators and judges may see you as less credible overall, if they think you are mentally ill.

DV/MH Collaboration Project
## When Protective Behaviors are Seen as Harmful

<table>
<thead>
<tr>
<th>Protective Behaviors</th>
<th>Arguments for Protective Behaviors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seeking a Domestic Violence Protection Order (DVPO) that includes the children</td>
<td>There is a fear for the children’s safety because of violence or a threat.</td>
</tr>
<tr>
<td>Contacting Child Protective Services (CPS) and making a child abuse report alleging that the other parent has harmed the children</td>
<td>The child has expressed harm and as a responsible parent the survivor is addressing the concern. Survivor has been told by a professional (e.g., doctor) to call CPS.</td>
</tr>
<tr>
<td>Talking to the child about their safety</td>
<td>The survivor wants to ensure that the child is aware of safety boundaries and knows how to get help, if needed.</td>
</tr>
</tbody>
</table>
Scenario

What does Jill likely need from an attorney?
Tools for Attorneys

Keeping the Focus on DV: A Relative Risks Guide

Safety Planning with DV Survivors

Supplement to National Attorneys Handbook
Keeping the Focus on DV: A Relative Risks Guide for Attorneys Representing Survivors

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DV/MH Collaboration Project

**Restriction Triggers**

**Mandatory Factors**
- Abandonment/Substantial Refusal to Parent
- Child Abuse
- Domestic Violence, Assault, or Sexual Assault
- Parent Convicted of a Sex Offense

**Discretionary Factors**
- Neglect
- Emotional or Physical Impairment
  - Long-term and Interferes with Parenting
- Substance Abuse
  - Long-term and Interferes with Parenting
- Lack of Emotional Ties
- Abusive Use of Conflict
- Withholding the Child
- Other
Safety Planning with Domestic Violence Survivors

Safety planning refers to an active process of identifying and mitigating risks to safety. It is not just a checklist or a form. As an attorney, you have an important opportunity to safety plan with domestic violence survivors to help them avoid additional harm.

“As an attorney I feel that I have a unique role in safety planning with my clients. It is important to be aware of how legal actions can affect survivor safety. But more than that, I hope to draft legal orders with safety of the survivor and children in mind so that, long after my involvement in the case has ended, the survivor has a built-in safety mechanism.”

- A family law attorney

This handout will cover how to:
- Recognize and mitigate safety risks;
- Develop safer court orders including parenting plans; and
- Connect to domestic violence advocates for in-depth safety planning and consultation.
# Table of Contents

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<th>Corresponds to Pages in National Attorneys Handbook</th>
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<td>Introduction</td>
<td>3</td>
<td>n/a</td>
</tr>
<tr>
<td>Section One</td>
<td>Interviewing</td>
<td>No supplemental info needed</td>
</tr>
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<td>65-67</td>
</tr>
<tr>
<td>Acknowledgements</td>
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<td>n/a</td>
</tr>
</tbody>
</table>
Scenario

What information will Jill likely need regarding understanding domestic violence and her options?
Survivor Tools for Understanding DV/Options

- DV Definitions Comparison
- Court Orders Comparison
- DVPO Info
# Domestic Violence Definitions Comparison Chart

<table>
<thead>
<tr>
<th>Type</th>
<th>Definition</th>
<th>How it is Used</th>
</tr>
</thead>
<tbody>
<tr>
<td>Behavioral</td>
<td>A pattern of assaultive and coercive behaviors including physical, psychological, and sexual attacks, as well as economic coercion, that adults or adolescents use against their intimate partners. The intent, context, and effect of the behavior indicate whether it is being used to assert control over someone or to protect oneself.</td>
<td>Community-Based DV Advocacy Programs use behavioral definitions (but not necessarily this exact one) rather than legal ones. They view DV as a pattern of coercive control that does not have to include physical violence.</td>
</tr>
<tr>
<td>Criminal</td>
<td>There is no one crime that is called “Domestic Violence.” Domestic violence is a label added to certain crimes when a family or household member or someone in a dating relationship commits them. Some of the crimes that could be DV crimes are:</td>
<td>A DV crime may be a single incident (except for stalking). There does not need to be a pattern of coercive control. Only a prosecutor/government attorney can file or dismiss criminal charges against someone. A victim or survivor cannot file or dismiss criminal charges.</td>
</tr>
</tbody>
</table>
Court Orders Comparison Chart

Choosing the Right Civil Order

What is your relationship with the person who has harmed you?

We have or had an intimate relationship (such as dating) or are family or live in the same household

- Have you experienced domestic violence?
  - Consider a Domestic Violence Protection Order

- Are you a vulnerable adult?
  - Consider a Vulnerable Adult Protection Order

We are not family, do not live in the same household, and have not had an intimate relationship

- Have you been harassed?
  - Consider an Anti-Harassment Order

- Have you been sexually assaulted?
  - Consider a Sexual Assault Protection Order

- Have you been stalked?
  - Consider a Stalking Protection Order

DV/MH Collaboration Project
# DV Protection Order Info Tool

<table>
<thead>
<tr>
<th>A DVPO Can</th>
<th>A DVPO Cannot</th>
</tr>
</thead>
<tbody>
<tr>
<td>Order the respondent to stop harming, contacting, or stalking you, or coming near your home, workplace, school, or daycare</td>
<td>Guarantee safety for you or your children</td>
</tr>
<tr>
<td>Order the respondent to leave your home</td>
<td>Change ownership of your home</td>
</tr>
<tr>
<td>Grant you use of essential personal items, a vehicle, or residence</td>
<td>Divide property or protect accounts (bank, insurance, utilities, etc.)</td>
</tr>
<tr>
<td>Grant temporary child custody or visits[^1]</td>
<td>Establish child paternity, modify long-term child custody, or set child support</td>
</tr>
<tr>
<td>Grant you custody of a pet</td>
<td>Award long term pet ownership</td>
</tr>
<tr>
<td>Order the respondent to an intervention</td>
<td>Guarantee that the respondent will participate in the ordered intervention</td>
</tr>
<tr>
<td>Order the respondent to surrender firearms</td>
<td>Guarantee that the respondent will not have access to weapons</td>
</tr>
<tr>
<td>Result in an arrest and a criminal charge if it is reported that the respondent violated the order and the state brings a criminal case</td>
<td>Result in a criminal charge unless the violation is reported and the state opts to act</td>
</tr>
</tbody>
</table>

[^1]: Under certain circumstances.
Scenario

What information will Jill likely need regarding child custody?
Survivor Tools Regarding Custody

- Parenting Resources
- Family Law Evaluations
- Parenting Evaluators Comparison
- Family Courts Services Q&A
Parenting Resources Tool

Factors considered, if there are no mandatory or optional parenting plan limitations (RCW 26.09.187)

- Strength, nature and stability
- Agreement of the parties
- Performance of parenting functions
- Child's needs and development
- Relationships and involvement
- Parents' and child's wishes
- Employment schedule
- Relationship quality
- Meeting child's needs
- Education
- Fostering relationships
- Appropriate judgment
- Financial support

DV/MH Collaboration Project
## Family Law Evaluations Tool

<table>
<thead>
<tr>
<th>Parenting Evaluations</th>
<th>Mental Health Evaluations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Both parents are typically evaluated</td>
<td>Often only one parent is evaluated</td>
</tr>
<tr>
<td>Focus is on determining the best interests of the children</td>
<td>Focus is on the parent’s mental health</td>
</tr>
<tr>
<td>Provide recommendations related to the bests interests of the children</td>
<td>Provide recommendations related to one aspect of the best interests of the children – the mental health of one parent</td>
</tr>
<tr>
<td>Typically includes review of criminal history, Child Protective Service reports, domestic violence, and family law matters</td>
<td>Typically includes review of only mental health records</td>
</tr>
<tr>
<td>May also include review of health, mental health, and substance abuse records</td>
<td></td>
</tr>
</tbody>
</table>

DV/MH Collaboration Project
# Parenting Evaluators Comparison Chart

<table>
<thead>
<tr>
<th>Category</th>
<th>CASAs</th>
<th>FCS</th>
<th>GALs</th>
<th>Private</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General Training</strong></td>
<td>Must undergo WA State 21-hour training and 10 hours of continuing education each year.</td>
<td>Trains staff for 3-4 months in risk assessments, evaluations, and mediation. They provide staff ongoing training.</td>
<td>Statewide mandatory 3-day training offered by King County Bar Association. Court may mandate additional training.</td>
<td>No training required. Many have participated in UW Evaluator Program.</td>
</tr>
<tr>
<td><strong>DV Training</strong></td>
<td>Two hours included in mandatory training</td>
<td>Provided in-house as part of their training</td>
<td>Two hours included in mandatory 3-day training</td>
<td>None required</td>
</tr>
<tr>
<td><strong>Supervision</strong></td>
<td>Supervised by masters level social workers</td>
<td>Program Manager and Assistant Manager review process</td>
<td>None</td>
<td>They are expected to comply with ethical standards for their</td>
</tr>
</tbody>
</table>

DV/MH Collaboration Project
Domestic Violence Assessments

10. When and how does FCS conduct DV assessments?

Judges and commissioners assign DV assessments to FCS via an order transfer. Parties cannot opt to send the case to FCS. Sometimes people try to use the DV Assessment at the beginning as a parenting evaluation, but people cannot do that. The court generally gives FCS approximately 6-12 weeks to turn around the assessment. FCS does not charge for DV assessments.

A file will be opened and the parties will be given a questionnaire to complete. The parties will also be sent appointment letters. The appointments will be scheduled on separate days or hours apart for safety reasons. FCS will order police reports and will ask the parties to sign releases for other relevant records. FCS does not interview
Scenario

What information will Jill likely need to survive (emotionally and financially) the family law process?
Survivor Tools for Survival

- Financial Resources
- Coping Skills
- Songs for Surviving the Family Law Process

DV/MH Collaboration Project
Financial Resources Tool

Court Fee Waivers
If you represent yourself and are unable to afford the court filing fees and mandatory fees and costs (for example, family law orientation fee, parenting seminar fee, etc.), you may request that the court waive the fees and costs based on your inability to pay.

The court is required to waive* the filing fees and other mandatory fees and costs if you are currently receiving assistance under a needs-based assistance program such as Temporary Assistance for Needy Families (TANF), Housing and Essential Needs (HEN), Supplemental Security Income (SSI), poverty-related veteran’s benefits, and Supplemental Nutrition Assistance Program (SNAP or Basic Food).

Even if your income is above the 125% federal poverty level threshold, the court may waive your fees if the court finds that you have recurring basic living expenses that make you unable to pay, or if there are other compelling reasons to do so.

You will have to list your basic household expenses to get a waiver if you are not represented by a legal aid attorney. If you are represented by a legal aid attorney, you qualify for a fee waiver.

For fee waiver forms and instructions, see
www.washingtonlawhelp.org/resource/new-court-rule-filing-fee-waiver
www.kingcounty.gov/courts/clerk/fees.aspx

Ordering the Other Party to Pay Your Attorney’s Fees
You can ask the court to order the other party to pay for your attorney’s fees in a
Coping Skills Tool

Contents

1. Breathing from the Belly
2. Change the Channel
3. Daily Think Time
4. Distracting Activities
5. Exercise
6. Grounding
7. Grounding Using an Item
8. Music
9. Nutrition
10. Progressive Muscle Relaxation
11. Square Breathing
12. Staring Down the Monster
13. Thought Stopping
Songs for Surviving the Family Law Process

*Sisters are Doin’ it for Themselves* – Eurythmics
🎵 Sisters are doin’ it for themselves. Standin’ on their own two feet. 🎵
This pop song celebrates the progress women have made in our society. Women are everywhere, can do anything, and do not have to hide behind a man. Inspiring!

*Strength, Courage & Wisdom* – India.Arie
🎵 Strength, courage, and wisdom, and it’s been inside of me all along 🎵
This 2001 R&B song by Grammy award winner India.Arie is a soothing and positive reminder of the strength, courage, and wisdom within each of us.

*Stronger (What Doesn’t Kill You)* – Kelly Clarkson
🎵 You know I dream in colour, And do the things I want 🎵
This pop rock dance tune is about growing stronger by facing life’s challenges. Although the family law system can be challenging, you can come out of it stronger.

*Try* – Pink
🎵 Just because it burns doesn't mean you're gonna die; You've gotta get up & try 🎵
This contemporary pop rock ballad urges us to try even when pain tempts us to quit. If you are struggling to get out of bed, Pink will sing to you, “You’ve gotta get up.”

These songs are available for download on Spotify at http://open.spotify.com/user/mhdvcollab/playlist/7cUPRy3lCkN2CpDteYGcIJ.

Complete Song Lyrics
Scenario

What information will Jill likely need to get help from service providers?
Survivor Tools for Connecting to Service Providers

MH Treatment Resources

DV Advocacy Resources

Legal Resources

DV/MH Collaboration Project
Mental Health Treatment Resources Tool

Mental Health Crisis Services
Call 911 or go to an emergency room if the situation is life threatening. Otherwise, contact the King County Crisis Line at 206-461-3222 or 866-427-4747 (866-4CRISIS).

Mental Health Counseling at Domestic Violence Programs
If you are a program participant at a community-based domestic violence program, you may be able to access free, short-term mental health counseling. Check with your advocate or call the organization to find out more.

Community Mental Health Treatment
For a list of government-funded organizations that provide services to people who are low income and meet eligibility requirements, see http://kingcounty.gov/healthservices/MentalHealth/ProvidersAll.aspx. Some agencies may be more convenient based on their location, while others may be a better fit because of the programs they offer or due to their culturally specific services.

<table>
<thead>
<tr>
<th>King County Community Mental Health Agencies for Adults Include</th>
</tr>
</thead>
<tbody>
<tr>
<td>Call the King County Mental Health Client Services Team to learn about your options. 1-800-790-8049</td>
</tr>
<tr>
<td>Asian Counseling and Referral Service</td>
</tr>
</tbody>
</table>
## DV Advocacy Resources Tool

<table>
<thead>
<tr>
<th>Organization</th>
<th>Contact Info</th>
<th>Service Focus</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abused Deaf Women's Advocacy Services</td>
<td>206.812.1001 (Videophone) <a href="http://www.adwas.org">www.adwas.org</a></td>
<td>People who are Deaf, Hard-of-Hearing and Deaf-Blind</td>
</tr>
<tr>
<td>API Chaya</td>
<td>206.325.0325 <a href="http://www.apichaya.org">www.apichaya.org</a></td>
<td>People who are Asian, South Asian &amp; Pacific Islanders</td>
</tr>
<tr>
<td>Consejo Counseling and Referral Service</td>
<td>206.461.4880 M-F 8am-5pm 1.888.847.7205 after 5pm <a href="http://www.consejocounseling.org">www.consejocounseling.org</a></td>
<td>People who are Spanish-Speaking Immigrants &amp; Refugees</td>
</tr>
<tr>
<td>Domestic Abuse Women's Network</td>
<td>425.656.7867 <a href="http://www.dawnonline.org">www.dawnonline.org</a></td>
<td>South King County</td>
</tr>
<tr>
<td>The DoVE Project</td>
<td>206-462-0911 <a href="http://www.vashondoveproject.org">www.vashondoveproject.org</a></td>
<td>Vashon Island</td>
</tr>
</tbody>
</table>
# Legal Resources Tool

## Legal Resources

<table>
<thead>
<tr>
<th>Organization</th>
<th>Services Include</th>
<th>Contact Info</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disability Rights Washington</td>
<td>Legal services for disability rights violations</td>
<td>206-324-1521</td>
</tr>
<tr>
<td>Domestic Violence Protection Order (DVPO) Clinic</td>
<td>Consultations regarding DVPO’s; paperwork help &amp; hearing preparation; 8:30am-12pm on 2(^{nd}) Thursday of odd-numbered months in Seattle and on every 3(^{rd}) Thursday on the Eastside</td>
<td>425-562-8840 x433 (Eastside) 206-926-3021 (Seattle)</td>
</tr>
<tr>
<td>Eastside Legal Assistance Program</td>
<td>Brief consultations for family law &amp; immigration; unbundled legal services; legal representation for DV family law (need DV program referral for representation)</td>
<td>425-747-7274</td>
</tr>
<tr>
<td>Family Law Facilitator Program</td>
<td>Info, referrals &amp; document review for unrepresented people regarding family law; Walk in hours:</td>
<td>206-296-9092 (Seattle) 206-205-2526 (Kent) Call #’s above for recorded info about program hours or</td>
</tr>
</tbody>
</table>
Scenario

What information will Jill likely need to access and navigate the DVPO and the family law system?
Survivor Tools for Accessibility

Language & Disability Access

Immigration FAQs

Words Matter: our glossary

DV/MH Collaboration Project
Language Access – Requesting Interpretation

If you need interpretation, the court is required to provide you with competent interpretation at no cost to you, so you can participate in the legal process.\(^1\)

Call in Advance, If Possible
The court is obligated to provide interpreter services on an emergency basis, especially for protection orders, but you may be able to reduce your wait time by calling in advance.

You can contact the court’s Office of Interpreter Services (OIS) to request an interpreter at King County Superior Court.
I was so afraid to do anything or go anywhere because my husband kept telling me that I was “illegal” and did not have any rights. He would tell me that if I called the police I would get arrested and deported. He told me that if I tried to leave him, I would lose my children because I was “illegal.” After going to a domestic violence advocate, who talked to me about my rights, gave me a handout and referred me to the Northwest Immigrant Rights Project, I was able to breathe better, and I did call the police after my husband beat me up. I now understand that he was using my immigration status as a tool to manipulate me. I am now a permanent legal resident, divorced, and have full custody of my children.

- A domestic violence survivor
**Words Matter**, our project glossary

**Mental Health / Mental Illness**
“Mental health” and “mental illness” are not polar opposites, but rather points on a continuum. Mental health is a state of successful performance of mental function, resulting in productive activities, fulfilling relationships with other people, and the ability to adapt to change and to cope with adversity. Mental health is indispensable to personal well-being, family and interpersonal relationships, and contribution to community or society... What it means to be mentally healthy is subject to many different interpretations that are rooted in value judgments that may vary across cultures. (From Mental Health: A Report of the Surgeon General)

**Mental Health Counseling**
Mental health counseling is professional services that address emotional problems and problematic behaviors. Counselors apply principles of psychotherapy, human development, family dynamics, and human behavior to help individuals improve their mental health and well-being.
Accessing the Toolkits

1. Go to www.endgv.org
2. Select Projects & Tools
3. Select Domestic Violence & Mental Health Collaboration Project
4. Scroll down for links to Toolkits

FAMILY LAW TOOLKITS

The Collaboration Project created toolkits for Domestic Violence Survivors, Domestic Violence Advocates, Attorneys, and Mental Health Service Providers to improve the experiences of survivors who have mental health concerns and who are involved in family law or protection order cases. The tools are intended to educate, alleviate anxiety, mitigate potential harm, and enhance safety and self-determination. While the tools are designed for use in King County, WA, templates are available for many of the tools so you can adapt them for your community’s needs.

We have a glossary in case you are not familiar with some of the words we have used in our tools – Words Matter, the Glossary of the Domestic Violence and Mental Health Collaboration Project. (pdf)

- Family Law Toolkits Overview (pdf)
- Family Law Toolkit for Domestic Violence Survivors (link)
- Family Law Toolkit for Domestic Violence Advocates (link)
- Family Law Toolkit for Attorneys (link)
- Family Law Toolkit for Mental Health Service Providers (link)

DV/MH Collaboration Project
FAMILY LAW TOOLKIT FOR DOMESTIC VIOLENCE SURVIVORS

- Introduction & Table of Contents
- Template Instructions and Technical Assistance
- Coping Skills
- Court Orders Comparison
- Domestic Violence Advocacy Resources
- Domestic Violence Definitions Comparison Chart
- Domestic Violence Protection Order Information
- Family Court Services Q&A
- Family Law Evaluations
- Financial Resources
- Immigration FAQs
- Language & Disability Access
- Legal Resources
- Mental Health Treatment Resources
- Parenting Evaluators Comparison Chart
- Parenting Resources
- Songs for Surviving the Family Law Process

DV/MH Collaboration Project
Court Fee Waivers
If you are unable to afford the court fees and related costs, you may request that the court waive them based on your inability to pay. Insert information about eligibility for fee waivers in your jurisdiction and how to request a fee waiver.

For fee waiver forms and instructions, see Insert a link to local resources for this.

Ordering the Other Party to Pay Your Attorney’s Fees
You can ask the court to order the other party to pay for your attorney’s fees in a dissolution (divorce) or parenting plan (custody case). For more information see insert resource for this, if one exists in your community.

Financial Assistance
You can learn about a variety of assistance programs and their eligibility requirements by visiting insert financial assistance website here. The benefits for which you can apply online include Temporary Assistance for Needy Families (TANF), Refugee Cash Assistance, disability assistance, Supplemental Nutrition Assistance Program (SNAP or Basic Food), Medicare, and childcare subsidies. Your eligibility is based on the number of people in your household, not on your marital status.
How will you utilize the Family Law Toolkits?
Thank you!

Learn more at http://endgv.org/projects/domestic-violence-mental-health-collaboration-project/ (scroll down for toolkits)

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