

“THOUGHTS, PRAYERS, AND ZERO SOLUTIONS: HOW TEXAS CAN FIX ITS DOMESTIC VIOLENCE LAWS”

Rachel Huskins\*

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The Texas Legislature has repeatedly failed to take proactive steps in addressing intimate partner violence, often waiting until a tragic incident forces them to reconsider outdated laws.1 Instead of taking action to protect domestic violence victims, lawmakers have dismissed these issues as “family matters,” only

\* Rachel Hannah Huskins is a Juris Doctor candidate at the University of North Texas at Dallas College of Law. Her advocacy for survivors of domestic violence has informed both her legal studies and public engagement, including her contribution to the DC Coalition’s Amicus Brief in United States v. Rahimi before the U.S. Supreme Court.

1 See Roper v. Jolliffe, 493 S.W.3d 624, 636 (Tex. App.—Dallas 2015, pet. denied) (noting the historical neglect of domestic violence by both society and the Legislature, which did not act until 1979 to establish a civil statutory scheme for addressing family violence; emphasizing the Legislature’s intent to provide expedited and effective relief—such as protective orders—given that delays inherent in jury trials may frustrate the statute’s protective purpose).

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paying attention when a victim, reliving the trauma, demands a change in Austin.<sup>2</sup> In the last decade, the number of women shot and killed by an abuser has nearly doubled in Texas, with the state seeing more than a 33% increase in family violence incidents from 2018–2022.<sup>3</sup> Women can no longer afford for the legislature to ignore this state-wide epidemic.

Meaningful, victim-centric change requires that victims, advocates, and lawmakers know the legislative history of family violence, including why the laws were written in such a way in the first place. More importantly, this change requires that victims raise their voices. This is written for the women who once considered themselves the last person to end up in that situation but became the one in nearly two Texas women<sup>4</sup> abused by their partner, who are tired of hearing about how the system is “broken” without further explanation.

## I. BACKGROUND

This legislative attitude originated with the 66th Legislature in 1979, when lawmakers passed HB 1075, which established state-funded domestic violence shelters and created family violence protective orders.<sup>5</sup> Under Chapter 71, now Chapter 85, courts could issue protective orders if they determined that family violence had occurred and was likely to happen again, though they were not required to do so.<sup>6</sup> The law also mandated that applications be dismissed if a divorce action was pending.<sup>7</sup> The legislature merely sought to provide a temporary solution to violent relationships; protective orders would “help defuse a violent situation” and “give a family time to figure out ways to solve its problems.”<sup>8</sup> Opposition to the bill states that “[t]he state should not intervene in family problems, or make it easier for wives to leave their husbands. The taxpayers of the state do not want to pay for these centers.”<sup>9</sup>

In the following session, the 67th Legislature made several amendments to Chapter 71, mostly related to application fees.<sup>10</sup> Lawmakers clarified that the intent

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<sup>2</sup> See Tex. Code Crim. Proc. Ann. §5.01 (expressing the Legislature’s intent to treat family violence as a serious threat to individual and public safety and mandating maximum protection for victims, regardless of their relationship to the offender); see also *id.* (noting that, despite this strong legislative statement, enforcement and judicial responses often fall short in practice, revealing a gap between statutory purpose and real-world application).

<sup>3</sup> Texas Council on Family Violence, *Honoring Texas Victims: Analysis of Family Violence Fatalities*, Analysis Rep. (Texas Council on Family Violence, Austin, Tex), 2022, at 3, 5.

<sup>4</sup> Tex. Council on Fam. Violence, *State of the State* (2022); Noël Bridget Busch-Armendariz & Laurie Cook Heffron, *Statewide Prevalence of Intimate Partner Violence in Texas* (2011), <https://sites.utexas.edu/idvsa/files/2019/03/Statewide-Prevalence-of-Intimate-Partner-Violence-in-Texas-NBA.pdf>

<sup>5</sup> Tex. H.B. 1075, 66th Leg., R.S. (1979).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> House Comm. on Human Serv., Bill Analysis, Tex. H.B. 1075, 66th Leg., R.S. (1979).

<sup>9</sup> *Id.*

<sup>10</sup> Tex. S.B. 69, 67th Leg., R.S. (1981).

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behind protective orders was “to provide immediate protection for domestic violence victims when divorce action is either inappropriate or undesirable” and “allow battered spouses seeking protection but not a permanent breakup of their families to seek protective relief.”<sup>11</sup>

Over time, the legislature expanded the availability of family violence protective orders to victims of dating violence<sup>12</sup> and allowed victims of sexual assault, human trafficking, and stalking to obtain protective orders under Chapter 7B of the Texas Code of Criminal Procedure.<sup>13</sup> These protective orders, modeled after family violence protective orders, required similar findings, e.g., a rape victim had to prove that her rapist raped her once *and* that she was “the subject of a threat that reasonably places the applicant in fear of further harm from the alleged offender.”<sup>14</sup>

The consequences of this language are best shown by the egregious decision in *Garcia v. Tautenhahn*, which affirmed the trial court’s denial of a sexual assault victim’s application for a protective order because the victim did not show that she was the subject of a threat that reasonably placed her in fear of being sexually assaulted again.<sup>15</sup> There, Garcia suspected that Tautenhahn drugged her in July 2006, but was not aware that he raped her until she found out she was pregnant a month later.<sup>16</sup> She gave birth to her daughter, who was confirmed Tautenhahn’s child through a paternity test.<sup>17</sup> Tautenhahn began contacting Garcia and people she knew to ask about Garcia and the baby.<sup>18</sup> She filed for a protective order in early 2008, testifying that she was scared and “afraid that Tautenhahn could ‘easily do something’ to her child and contact with him would ‘break [her] down emotionally.’”<sup>19</sup> In reviewing the evidence, the court explained:

Based on the evidence presented, the trial court did not believe that Tautenhahn’s only contact with Garcia—two years prior to her application for a protective order—supported a finding that Tautenhahn subjected Garcia to a threat... Although Garcia may have been fearful of further contact with Tautenhahn because it would cause her emotional harm, the evidence presented did not establish that Tautenhahn intended to inflict injury or damage to Garcia or that he intended to contact her and cause her further

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<sup>11</sup> S. Comm. on Judiciary, Bill Analysis, Tex. S.B. 69, 67th Leg., R.S. (1981).

<sup>12</sup> See Kristy Appleby Act, 82nd Leg., R.S., ch. 872, §5, 2011 (codified at Tex. Fam. Code Ann. §71.0021(a) (West Supp. 2011)) (including acts “against a victim ... because of the victim’s marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage” as dating violence).

<sup>13</sup> Tex. Code. Crim. Proc. Ann. art. 7B.001.

<sup>14</sup> Tex. Code Crim. Proc. Ann. art. 7A.03.

<sup>15</sup> 314 S.W.3d 541 (Tex. App.—Corpus Christi—Edinburg 2010, no pet.)

<sup>16</sup> *Id.* at 542.

<sup>17</sup> *Id.* at 543.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 542–43.

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emotional harm. Therefore, the trial court found that Garcia’s fear of further harm from Tautenhahn was not reasonable.<sup>20</sup>

The 83rd Legislature responded to this decision by removing the threat of further harm requirement.<sup>21</sup> The Bill Analysis stated that the amendment was “critical to ensuring protection for sexual assault victims,” because the “further harm” requirement—“as interpreted by a recent appellate decision”—had made the statute’s original intent ‘impracticable.’<sup>22</sup>

The closest the legislature came to implementing findings similar to Chapter 7A protective orders was in 2023 when it passed HB 1432.<sup>23</sup> Yet again, the legislature reacted to the Fort Worth Court of Appeals’ misinterpretation of the “future harm” requirement in *Huskins v. Garcia*<sup>24</sup> only after hearing from the appellant, a victim of both family violence and the State’s forty-four-year-old desire to protect violent marriages.<sup>25</sup> At her protective order hearing, the victim “testified to several instances involving physical assault, threats, and sexual violence” her abuser committed throughout their relationship.<sup>26</sup> The Court affirmed the trial court’s denial of her application, explaining:

Huskins’s testimony described Garcia’s past acts of physical and verbal abuse, and photographs admitted into evidence show bruising and redness on her face, neck, arm, and ribs. Although the trial court could not deny that this “wealth of evidence” shows that family violence had occurred, this evidence alone did not require the trial court to find that Garcia would engage in family violence in the future. We therefore cannot say that a likelihood of future violence is conclusively established by the evidence of Garcia’s past violent acts.

Further, Huskins testified that Garcia had not attempted to contact her directly since July 23, 2021, and that he had not communicated with her, even after the temporary ex parte order was no longer in place. Additionally, Garcia had moved to south Texas, which was an eight-hour drive from the city in which Huskins resided. And Huskins testified that she believed Garcia would stay away from her and would not contact her, if the trial court ordered him to do so. When viewed in the light most favorable to the trial

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<sup>20</sup> *Id.* at 546.

<sup>21</sup> Tex. H.B. 649, 82nd Leg., R.S. (2011).

<sup>22</sup> S. Comm. on Crim. Justice, Bill Analysis, Tex. S.B. 357, 83rd Leg., R.S. (2013).

<sup>23</sup> Tex. H.B. 1432, 88th Leg., R.S. (2023).

<sup>24</sup> No. 02-21-00328-CV, 2022 WL 3905083 (Tex. App.—Fort Worth Aug. 31, 2022, no pet.) (mem. op.).

<sup>25</sup> House Comm. on Juvenile Justice & Family Issues, Witness List, H.B. 1432, 88th Leg., R.S. (2023).

<sup>26</sup> *Huskins*, 2022 WL 3905083, at \*1.

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court’s finding, and indulging “every reasonable inference deducible” from it, we cannot say that this evidence establishes conclusively the opposite of a vital fact, nor can we say that the record bears no evidence of a vital fact. In other words, a reasonable factfinder could consider this evidence and reasonably infer from it that family violence was not likely to occur in the future—a vital fact when determining whether to issue a protective order.<sup>27</sup>

The House Committee explained the ramifications of the “future harm” requirement for family violence protective orders and why change was necessary:

This is a higher standard compared to what is required to obtain a protective order for stalking, sexual assault, or human trafficking, where one simply has to prove that there are reasonable grounds to believe that the applicant is a victim of such a crime. The “likely to occur again” provision gives judges a high degree of individual discretion in deciding to grant a protective order for family violence. This discretion leads to disparities in the granting of protective orders, as this phrasing is an ambiguous standard that many survivors cannot prove definitely, thus depriving many of them of the security of a protective order.

There needs to be a consistent standard in the process to obtain a protective order by aligning the requirements with the same standard as protective orders for victims of stalking, sexual assault, and human trafficking.<sup>28</sup>

In light of the cultural and political landscape of 1979, it is evident that the 66th Legislature adopted the ‘Future Harm’ requirement with the intent that the woman must demonstrate a likelihood of additional physical violence *because she intended to remain married to her abuser*. Moreover, the provision was originally codified in the Family Code because, in 1979, the act of beating one’s spouse was not classified as a criminal offense.<sup>29</sup> At the time, such conduct was regarded as a private, domestic matter—shielded by notions of familial autonomy and the traditional reluctance of courts and government to intrude upon the home.<sup>30</sup> Although the societal perspective has certainly evolved, the foundational tone of the statutes affecting victims of domestic violence has remained largely unchanged.

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<sup>27</sup> *Id.* at \*3–4.

<sup>28</sup> House Comm. on Juvenile Justice & Family Issues, Bill Analysis, H.B. 1432, 88th Leg., R.S. (2023).

<sup>29</sup> *Barber v. Barber*, 62 U.S. 582, 603 (1858) (“It is not in accordance with the design and operation of a Government having its origin in causes and necessities, political, general, and external, that it should assume to regulate the domestic relations of society; should, with a kind of inquisitorial authority, enter the habitations and even into the chambers and nurseries of private families, and inquire into and pronounce upon the morals and habits and affections or antipathies of the members of every household.”).

<sup>30</sup> *Id.*

## II. CHANGES NEEDED IN THE 89<sup>TH</sup> LEGISLATIVE SESSION

### A. Terminology

First and foremost, the term “family” must be removed from the description of domestic abuse. The term “family violence” refers to abusive behaviors occurring within a family or household, typically encompassing physical violence, emotional abuse, neglect, and other forms of mistreatment. However, using “family” to describe the relationship between the abuser and the victim can imply a sense of intimacy, loyalty, or duty, which minimizes the severity of the abuse. This label suggests that the abuse is merely a private family matter rather than a criminal one, reinforcing the notion that this issue should be handled internally rather than involving external legal or social intervention. Consequently, victims may feel pressured to maintain the “family” bond, which can further deter them from seeking help.

Additionally, referring to the abuser as “family” may inadvertently afford the abuser more dignity and protection than is warranted. This improper terminology can shift the focus from the criminality of the actions to the family dynamics, ultimately protecting the abuser from the full societal condemnation that their criminal behavior would otherwise warrant.

Second, the term “violence” implies purely physical harm, which can be misleading in cases of domestic abuse.<sup>31</sup> Domestic abuse often includes emotional, psychological, sexual, financial, or coercive control that may not appear “violent” but is no less harmful or criminal.<sup>32</sup> By using “violence” as a threshold, society and the legal community may perceive “family violence” as describing only physical harm, leaving victims of non-physical abuse feeling invalidated and ignored.<sup>33</sup>

Terms like “family violence” diminish the seriousness of abuse by framing it as a family issue rather than a violation of legal and personal rights. Similarly, emphasizing “violence” undermines the experiences of victims of non-physical abuse, creating a misconception that abuse must be overtly extreme before it qualifies as criminal behavior. Using clear and precise language such as “domestic abuse” or “intimate partner abuse” would encompass all forms of harm, would more

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<sup>31</sup> See generally NAT'L SOC'Y FOR THE PREVENTION OF CRUELTY TO CHILDREN (NSPCC), *Why Language Matters: Domestic Abuse Is Broader than Domestic Violence*, <https://learning.nspcc.org.uk/news/why-language-matters/domestic-abuse-is-broader-than-domestic-violence> (last visited Mar. 27, 2025) (explaining that the term "domestic violence" is often interpreted to mean only physical abuse, which can obscure the broader patterns of coercive and controlling behavior that constitute domestic abuse).

<sup>32</sup> See generally Tex. Fam. Code Ann. § 51.002(3)(A) (West 2023) (defining “family violence” to include not only physical harm but also acts “intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the individual in fear” of such harm, thereby encompassing emotional and psychological abuse).

<sup>33</sup> See Yasmin Khan, *Domestic Violence or Domestic Abuse? Why Terminology Matters*, WOMEN'S AGENDA (Mar. 18, 2019), <https://womensagenda.com.au/uncategorised/domestic-violence-or-domestic-abuse-why-terminology-matters/>.

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accurately reflect the nature of the abuse, and affirm the victim’s experiences. This will require updates to numerous Family Code and Penal Code provisions, but it is time to update the language adopted by people who thought breaking up violent marriages was a bad thing. Keeping it the same may be convenient but leaving it as is only endorses the opinions of the drafters.

B. *Criminalize Domestic Abuse*

The Texas Penal Code provides three levels of family violence charges. The lowest, a Class C Misdemeanor, criminalizes general assaultive contact by force only.<sup>34</sup> The next highest offense, a Class A Misdemeanor, applies if the abuser causes physical injury to a member of the same household.<sup>35</sup> The highest offense, a third-degree felony, includes continuous violence against the family<sup>36</sup> and aggravated assault.<sup>37</sup> The continuous violence against the family charge is found under Chapter 25, which defines offenses against the family; yet the assault charges are under Chapter 22, which defines assaults and classifies the crime based on the relationship between the victim and the offender.

Chapter 25 of the Texas Penal Code should be amended to provide a separate offense for assaulting an intimate partner, household or family member. Classifying domestic abuse as simple assault is insulting to victims, considering their psychological symptoms are nearly identical to those suffered by former prisoners of war.<sup>38</sup> The relationship and power dynamic between victims and their abusers creates this difference, and the law must reflect that. The legislature should eliminate Sections 22.01(b)(2) and 22.02(a)(1) from the Texas Penal Code, create a separate offense for domestic abuse under Chapter 25, and adopt Connecticut’s expanded definition of domestic violence to read as follows:

(1) A continuous threat of present physical pain or physical injury against a family or household member, (2) stalking, including but not limited to, stalking as described in section 42.072, of such family or household member; (3) a pattern of threatening, including but not limited to, a pattern of threatening as described in section 22.07, of such family or household member or a third party that intimidates such family or household member; or (4) coercive control of such family or household member, which is a pattern of behavior that in purpose or effect unreasonably interferes with a person’s free will and personal liberty. “Coercive control” includes, but is not limited to, unreasonably engaging in any of the following:

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<sup>34</sup> Tex. Penal Code Ann. § 22.01(a).

<sup>35</sup> *Id.* § 22.01(b)(2).

<sup>36</sup> *Id.* § 25.11(a).

<sup>37</sup> *Id.* § 22.02(a)(1).

<sup>38</sup> M. Romero, *A Comparison Between Strategies Used on Prisoners of War and Battered Wives*, 13 SEX ROLES 537, 537–47 (1985).

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- (A) Isolating the family or household member from friends, relatives or other sources of support;
- (B) Depriving the family or household member of basic necessities;
- (C) Controlling, regulating or monitoring the family or household member’s movements, communications, daily behavior, finances, economic resources or access to services;
- (D) Compelling the family or household member by force, threat or intimidation, including, but not limited to, threats based on actual or suspected immigration status, to (i) engage in conduct from which such family or household member has a right to abstain, or (ii) abstain from conduct that such family or household member has a right to pursue;
- (E) Committing or threatening to commit cruelty to animals that intimidates the family or household member; or
- (F) Forced sex acts, or threats of a sexual nature, including, but not limited to, threatened acts of sexual conduct, threats based on a person’s sexuality or threats to release sexual images.<sup>39</sup>

Further, the Texas legislature recently took action that interferes with a prosecutor’s discretion when he refuses to prosecute a class or type of criminal offense.<sup>40</sup> Lawmakers should raise the evidentiary standard required to reduce the severity of a domestic abuse charge. Currently, prosecutors have the ability to lower a charge from domestic abuse to simple assault without evidence that the victim is not an intimate partner, household member, or blood relative.<sup>41</sup>

*C. Change the Way Police Handle Domestic Abuse*

Australian investigative journalist Jess Hill exposes the terrors faced by victims of domestic abuse around the globe in her well-researched novel, *See What You Made Me Do: Power, Control and Domestic Violence*.<sup>42</sup> Hill draws attention to High Point, North Carolina’s successful efforts to combat domestic abuse.<sup>43</sup> The High Point model draws upon the concept of “focused deterrence,” a strategy initially employed to combat gang violence and youth gun crime, which has been

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<sup>39</sup> Conn. Gen. Stat. § 46b-1 (2024).

<sup>40</sup> Act of May 29, 2023, 88th Leg., R.S., ch. 366, §§ 1–7, secs. 87.011–87.018, 2023 Tex. Gen. Laws 5977, 6076–6080 (codified at Tex. Loc. Gov’t Code §§ 87.011–87.018).

<sup>41</sup> Tex. Penal Code § 22.01 (West 2023) (defining assault broadly and not requiring proof of a specific relationship for the base offense); Tex. Fam. Code §§ 71.0021, 71.003, 71.005 (defining dating violence, family, and household); Tex. Code Crim. Proc. art. 42.013 (addressing family-violence findings under the Code of Criminal Procedure); Tex. Penal Code § 25.11 (defining continuous violence against the family).

<sup>42</sup> See generally Jess Hill, *SEE WHAT YOU MADE ME DO: POWER, CONTROL AND DOMESTIC VIOLENCE* (Black Inc. 2019).

<sup>43</sup> *Id.* at 282–290.



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proven highly effective when applied to domestic abuse.<sup>44</sup> Focused deterrence targets the most dangerous domestic violence offenders by using their entire criminal history as leverage, allowing law enforcement to impose severe consequences for even criminal infractions.<sup>45</sup> This “Al Capone approach” effectively raises the stakes for reoffending by signaling to perpetrators that even petty offenses will result in harsh legal action.<sup>46</sup> By ensuring that every minor violation is met with serious legal repercussions, High Point’s approach dismantles the perception that intimate partner violence is beyond the reach of law enforcement. The result is a significant deterrence effect, particularly for chronic offenders who might otherwise believe they can act with impunity.<sup>47</sup>

A critical feature of the High Point strategy is its integration of community leaders and public accountability in the enforcement process.<sup>48</sup> By publicly confronting domestic violence perpetrators in front of their peers, religious figures, and community advocates, High Point shifts the responsibility for addressing abuse away from victims and onto the state.<sup>49</sup> The perpetrators are not only notified that they are under law enforcement surveillance, but are also provided with opportunities to reform, supported by a network of community resources.<sup>50</sup> This dual approach—combining the threat of severe punishment with access to rehabilitative services—send a clear message to perpetrators: their behavior is intolerable, and they must either change or face inevitable legal consequences.

This public accountability model also alleviates some of the psychological burdens typically placed on victims of domestic violence. Historically, victims have been forced to initiate and maintain protective actions, such as restraining orders or prosecutions, often while still living in fear of retaliation. High Point’s model removes this burden by positioning the community and law enforcement as the driving forces in holding offenders accountable, thus empowering victims by reducing their direct involvement in triggering enforcement actions.

D. *Reproductive Coercion/Abuse*

Reproductive coercion includes sexual assault, rape, threatening to end a relationship if a person doesn’t have sex, forcing a partner to not use birth control or other forms of contraception, hiding, withholding, destroying, replacing, or tampering with a sexual partner’s birth control pills without their consent, pressuring a sexual partner to get pregnant when they don’t want to be pregnant,

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<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> HIGH POINT POLICE DEP’T, *Domestic Violence Initiative*, City of High Point, <https://www.highpointnc.gov/462/Domestic-Violence-Initiative> (last visited Mar. 27, 2025) (describing the department’s collaborative approach to domestic violence prevention through community partnerships and offender interventions that incorporate public accountability).

<sup>49</sup> HILL at 282.

<sup>50</sup> *Id.* at 283.

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and pressuring a sexual partner to continue a pregnancy when she wants an abortion.<sup>51</sup>

In June 2022, following the Supreme Court's decision to overturn *Roe v. Wade*, Texas enacted legislation that not only banned abortions but also introduced a private right of action. This provision allows private individuals to sue anyone who performs or aids in an abortion, effectively enabling abusers to take legal action against their victims and those assisting them.<sup>52</sup> This right alone demonstrates the legislature's blatant disregard for victims and their privacy by awarding abusers who surveil their partner's reproductive health;<sup>53</sup> medical records and communications through the course of discovery.<sup>54</sup>

It is frequently stated that Texas should, at the minimum, allow exceptions for rape and incest.<sup>55</sup> However, this exception is not enough. Victims of domestic violence frequently fail to report being raped, yet when they do, they report repeated rapes.<sup>56</sup> Governor Greg Abbott defended this no-tolerance policy by promising to “eliminate all rapists from the streets of Texas.”<sup>57</sup> Shortly after making this statement, Abbott vetoed legislation that would require public school students to receive instruction on “the prevention of child abuse, family violence, and dating violence.”<sup>58</sup>

Any “pro-life” defense of the ban fails when it comes to pregnant victims of domestic violence. Abuse that begins or escalates during pregnancy is a significant indicator of the likelihood that a woman will be killed by her partner.<sup>59</sup> In fact, homicide deaths among pregnant women are more common than deaths from hypertensive disorders, hemorrhage, or sepsis.<sup>60</sup> Further, in 2022, Texas had more incidents of family annihilations than any other state since 2020, and saw a 5% increase from 2022 to 2023.<sup>61</sup> These statistics show that there is nothing “pro-life” about Texas’ abortion ban. Rather, the state has chosen which lives matter most

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<sup>51</sup> *Reproductive Abuse and Coercion*, WomensLaw.org (Jan.13,2020), <https://www.womenslaw.org/about-abuse/forms-abuse/reproductive-abuse-and-coercion>.

<sup>52</sup> See Tex. Health & Safety Code Ann. § 171.208.

<sup>53</sup> *Id.* § 171.208(b)(2); 171.208(a).

<sup>54</sup> See Tex. R. Civ. P. 192.3.

<sup>55</sup> Eric Lau, *Abortion should be permitted in cases of rape and incest, around 80% of Texas voters say in UT poll*, Tex. Trib. (Aug. 10, 2022), <https://www.texastribune.org/2022/08/10/texas-politics-project-abortion-polling/>.

<sup>56</sup> U.S. Off. of Just. Programs, NCJ 181867, *Extent, Nature, and Consequences of Intimate Partner Violence* 39 (2000).

<sup>57</sup> Tessa Stuart, *Greg Abbott's Promises to Eliminate Rape is Holding Up About as Well as You'd Expect*, Rolling Stone (Dec. 15, 2021), <https://www.rollingstone.com/politics/politics-news/texas-abortion-law-greg-abbott-rape-incest-1271311/>.

<sup>58</sup> Veto Message of Gov. Abbott, Tex. S.B. 1109, 87th Leg., R.S. (2021).

<sup>59</sup> Jacquelyn C. Campbell et al., *Risk Factors for Femicide in Abusive Relationships: Results from a Multistate Case Control Study*, 93 Am. J. Pub. Health, 1089–97 (2003).

<sup>60</sup> Rebecca B. Lawn & Karestan C. Koenen, *Homicide Is a Leading Cause of Death for Pregnant Women in U.S.*, 379 BMJ 2499 (2022) (discussing leading causes of death among pregnant women in the US).

<sup>61</sup> TEX. COUNCIL ON FAM. VIOLENCE, HTV-2022, *Analysis of Family Violence Fatalities* 10 (2022); TEX. COUNCIL ON FAM. VIOLENCE, *Analysis of Family Violence Fatalities* 10 (2023).

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and, again, battered women do not make the cut. The abortion ban and the bounty incentive provided to abusers need to be repealed in the upcoming legislative session to protect victims of a violent epidemic that the State is not rushing to fix.

E. *Protective Orders*

Family violence protective orders should be included under Chapter 7B of the Code of Criminal Procedure to make victims of domestic abuse, as defined above, eligible for relief under the same provisions available to victims of sexual assault, stalking, and trafficking if the legislature determines that domestic abuse is no longer a “family issue.”

Texas also limits the judges’ ability to restrict subjects of family violence protective orders from possessing firearms. Section 85.022 states that courts “may” prohibit the subject from “possessing a firearm, unless the person is a peace officer . . . .”<sup>62</sup> This must be amended to require courts to suspend all subjects’ rights to possess firearms for three reasons. First, Texas ranks second in the nation for active shooters,<sup>63</sup> and research has shown that roughly two-thirds of mass shooters have a history of domestic abuse.<sup>64</sup> Second, federal law prohibits subjects of protective orders from possessing firearms, regardless of a state court’s decision permitting a subject to possess firearms.<sup>65</sup> Finally, research indicates that at least 40% of police officers beat their spouses.<sup>66</sup> The law enforcement exception was enacted by the 77th Legislature in 2001, to “allow officers who were accused but not convicted of family violence to maintain their livelihood.”<sup>67</sup> Abusers should not be responsible for “protecting and serving” victims from their abusers. If there is no exception for gun trainers or hunting guides—people who also need access to firearms to “maintain their livelihood”—why is there one for police officers?

F. *Property Code*

Texas Property Code Section 92.016 provides protections for tenants who are victims of specific crimes, including domestic violence and sexual assault.<sup>68</sup> The

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<sup>62</sup> Tex. Fam. Code Ann. § 85.022(b)(6).

<sup>63</sup> Fed. Bureau of Investigation, *2023 Active Shooter Incidents in the United States* (2024), <https://www.fbi.gov/file-repository/2023-active-shooter-report-062124.pdf/view>.

<sup>64</sup> Lisa B. Geller et al., *The Role of Domestic Violence in Fatal Mass Shootings in the United States*, 8 INJ. EPIDEMIOL. J. 38 (May 31, 2021), <https://doi.org/10.1186/s40621-021-00330-0>.

<sup>65</sup> 18 U.S.C. § 922(g)(8).

<sup>66</sup> *On the Front Lines: Police Stress and Family Well-Being: Hearing Before the Select Comm. on Child., Youth, and Families*, 102d Cong. 37–39 (1991) (statement of Leonor Boulin Johnson, Assoc. Prof. of Fam. Studies, Dep’t of Fam. Res. & Hum. Dev., Ariz. State Univ.); Peter H. Neidig et al., *Interspousal Aggression in Law Enforcement Families: A Preliminary Investigation*, 15 POLICE STUDIES 30 (1992), <https://policing.umhistorylabs.lsa.umich.edu/files/original/5528df2d5b5c33cfeaa930146cfe20ccb5cad0cd.pdf>.

<sup>67</sup> House Comm. on Crim. Juris., Bill Analysis, Tex. S.B. 199, 77th Leg., R.S. (2001).

<sup>68</sup> Tex. Prop. Code Ann. § 92.016.

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statute allows these victims to terminate their lease early without penalty if they provide the landlord with specific documentation, such as a protective order or documentation from a healthcare professional.<sup>69</sup> The code also imposes a penalty of \$500 plus one month’s rent on landlords who violate its provisions.<sup>70</sup> A common misconception among both landlords and tenants is that a police report is required, which frequently leads to victims being denied the ability to terminate their lease without incurring additional costs because of their failure to file a police report. To address this, Section 92.016 should be amended as follows:

(c) To terminate a lease under this section, a tenant must provide the landlord with one of the following documents:

(1) a copy of a protective order issued under Chapter 85, Family Code, or a temporary injunction issued under Chapter 83, Family Code, that is currently valid;

(2) a copy of a restraining order, or an order of emergency protection, issued under Article 17.292, Code of Criminal Procedure;

(3) a statement signed by a licensed health care services provider, a mental health services provider, an advocate at a family violence center, or a licensed attorney affirming the tenant’s status as a victim of family violence, sexual assault, or stalking.

(c-1) A police report is not required under this section. The landlord may not deny a tenant’s request to terminate the lease under this section solely on the grounds that the tenant did not provide a police report. Any provision of a lease that conflicts with this subsection is void as against public policy.

Due to the commonality of this misunderstanding, this section should also require landlords to list the documents required in lease agreements, since most standard leases provide only vague statements regarding a victim’s rights under this section.<sup>71</sup>

Furthermore, a landlord can only be held accountable for violating a victim’s rights if the victim initiates a lawsuit.<sup>72</sup> This can be an additional financial strain on victims who are barely in a position to leave their abusers, let alone file a

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<sup>69</sup> *Id.* § 92.016(b-1), (c).

<sup>70</sup> *Id.* § 92.016(e).

<sup>71</sup> See TEX. APARTMENT ASS’N, *2021 Apartment Lease Contract* § 7.3 (2021), <https://www.taa.org/wp-content/uploads/2021/11/2021-Apartment-Lease-Contract-SAMPLE-11-23-21.pdf>; TEX. ASS’N OF REALTORS, *Residential Lease* § 28A (2022), <http://content.har.com/FormManager/pdf/79.pdf>.

<sup>72</sup> Tex. Prop. Code Ann. § 92.016(e).

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lawsuit.<sup>73</sup> A possible solution is to allow victims to report their landlords for violating this provision to the Consumer Protection Division of the Texas Attorney General’s Office, or their county or district attorney, who should be given the authority to enforce § 92.016 under Chapter 17 of the Business and Commerce Code.<sup>74</sup>

**III. THE NEXT GIRL NEEDS THE LAST GIRL TO BREAK HER SILENCE.**

The ongoing legislative neglect of domestic violence in Texas has left countless victims vulnerable, and without adequate protection. The current law, rooted in outdated perspectives, fails to address the complex and evolving nature of domestic abuse. The victim’s suffering extends beyond physical violence and includes emotional, psychological, and coercive control. It is imperative that the legislature act now, as the right time to act was over forty years ago.

When victims speak up, they challenge the status quo and bring much-needed attention to the system’s flaws. The testimony they provide can lead to stronger legal consequences for abusers and prevent them from harming others.

Victims’ voices are powerful—they not only drive legislative change but also create a ripple effect that can save the life of “the next girl” every battered woman worries about. Taking action is not just about personal justice; it is about protecting others from falling into the same trap. The power to change this lies with lawmakers and advocates alike, but it also depends on the courage of victims who demand a system that prioritizes their safety. Only through persistent effort, vocal advocacy, and a commitment to protect others can we hope to see a safer, more just future for victims of domestic abuse across the state.

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<sup>73</sup> Nat’l Network to End Domestic Violence, *Financial Abuse Fact Sheet* (July 2019), <https://nnedv.org/wp-content/uploads/2019/07/Financial-Abuse-Fact-Sheet.pdf>

<sup>74</sup> Tex. Prop. Code Ann. § 92.016; Tex. Bus. & Com. Code Ann. ch. 17 (authorizing tenants to terminate leases under certain circumstances and providing a framework for deceptive trade practices enforcement, which could empower public officials to hold landlords accountable).