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Hairdos and Help-seeking: Mandatory Domestic Violence Training for Salon Workers

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Abstract

Traditional methods to prevent and respond to domestic violence include criminal laws, national hotlines, and community programming to promote healthy relationships. Despite these methods, domestic violence continues to be a prevalent public health issue. In recent years, some states began to focus prevention and intervention efforts on the beauty industry. States including Arkansas, Illinois, Tennessee and Washington enacted laws that mandate domestic violence training for salon workers and other beauty professionals. The laws largely require salon workers to attend an informational training on domestic violence before obtaining or renewing their license. However, they do not require any affirmative action on the part of the salon worker if the client discloses that he or she is experiencing domestic violence. This paper investigates how the legislation uses the historically close relationship between hairdressers and their clients in order to achieve a unique way of reaching domestic violence victims, as well as the drawbacks to the legislative structure and atypical public health approach.

Keywords: Domestic violence; mandatory training; intervention; law

Introduction

New legislation emerging in Illinois, Tennessee, Arkansas and Washington mandates domestic violence prevention training for hairstylists and other beauty professionals. Illinois's law mandates an hour of abuse-prevention training in order to obtain a license to work in a salon.¹ These laws embody a new angle to tackle domestic violence, but they also raise questions about why this nontraditional surveillance is necessary, and whether it will be an effective means of preventing domestic violence.

Domestic violence, sometimes called interpersonal violence, is a particularly pernicious issue in public health. According to the National Intimate Partner and Sexual Violence Survey one in four women and one in seven men were victims of severe physical violence by an intimate partner in 2010, though the rates of violence are likely underreported.² Domestic violence is primarily perpetrated by men whether they are in heterosexual or same-sex couples.³ Some studies have found high levels of simultaneous violence between partners in a heterosexual relationship, but others have found higher

¹2016 Ill. Legis. Serv. P.A. 99-766 (West).

²M.C. BLACK ET AL., THE NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY: 2010 SUMMARY REPORT 2 (Nat'l Ctr. for Inj. Prevention and Control, Ctrs. for Disease Control and Prevention, 2011) https://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf [<https://perma.cc/LEH6-NBLZ>].

³PATRICIA TJADEN & NANCY THOENNES, EXTENT, NATURE AND CONSEQUENCES OF DOMESTIC VIOLENCE: FINDINGS FROM THE NATIONAL VIOLENCE AGAINST WOMEN SURVEY: RESEARCH REPORT IV (U.S. DEP'T OF JUST., 2000) <https://www.ojp.gov/pdffiles1/nij/181867.pdf> [<https://perma.cc/3QBL-NQH4>].

levels of violence and injurious violence among male perpetrators against female victims compared to female perpetrators against male victims.⁴

This paper outlines the existing legal landscape for domestic violence prevention. It next interrogates how the laws that mandate domestic violence training for salon workers, hereinafter “mandatory training laws,” fit into the extant legal framework in terms of their content and public health angle. It analyzes the strengths and weaknesses of these laws, as well as implementation issues related to the difference between the mandatory training laws and mandatory reporting laws, the pandemic, considerations of gender, class, and culture, and the impact on the salon workers. Lastly, it discusses how these laws could be further improved to enhance their utility to victims of domestic violence.

The existing legal landscape

State criminal and civil laws provide for causes of action intended to prevent and respond to domestic violence. About half of states have statutes that specifically criminalize “domestic violence.”⁵ These states typically define domestic violence as “an act or threatened act of violence.”⁶ The other half of states elevate traditional criminal offenses, such as assault or battery, to a crime of domestic violence when there is a statutorily defined relationship between the victim and perpetrator.⁷ Statutorily defined relationships usually include relationships in which the partners are or were married, living together, dating, or if they have a child together.⁸ Some states include “household member” in the applicable relationships, which often extends the relationship beyond traditionally recognized romantic relationships.⁹ For example, in Massachusetts, the law defines “family or household members” as “persons who: (a) are or were married to one another; (b) are or were residing together in the same household; (c) are or were related by blood or marriage; (d) having a child in common regardless of whether they have ever married or lived together; or (e) are or have been in a substantive dating or engagement relationship.”¹⁰

Laws that criminalize domestic violence aim to use criminal penalties to deter interpersonal violence.¹¹ States typically (but not always) impose harsher penalties for crimes of domestic violence compared to stranger assaults.¹² The harsher penalties are intended to counterbalance the repetitive and increasingly dangerous pattern of behavior that is characteristic of domestic violence relationships, compared to isolated incidents.¹³ Penalties range widely because states take different approaches to define crimes related to domestic violence.¹⁴ Typically, the penalty for a misdemeanor crime is a term of imprisonment that is a year or less, and a crime that constitutes a felony will receive a longer term of imprisonment.¹⁵ Some states offer judges a generous amount of discretion in determining the penalty.¹⁶ All jurisdictions provide for a mechanism for a victim of domestic violence to apply for a protective order.¹⁷

⁴Leigh S. Kimberg, *Addressing Intimate Partner Violence with Male Patients: A Review and Introduction of Pilot Guidelines*, 23 J. GEN. INTERN MED. 2071, 2072 (2008) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2596504/> [<https://perma.cc/UX7C-A64W>].

⁵Westlaw, *Domestic Violence*, 0030 SURVEYS 7 (Oct. 2021).

⁶KELLY D. WEISBERG, *DOMESTIC VIOLENCE LAW* 206 (2019).

⁷*Id.*

⁸*Id.*

⁹*Id.* at 207.

¹⁰MASS. GEN. LAWS ANN. ch. 209A, § 1 (West 2022).

¹¹EVE S. BUZAWA ET AL., *RESPONDING TO DOMESTIC VIOLENCE: THE INTEGRATION OF CRIMINAL JUSTICE AND HUMAN SERVICES* 6 (5th ed. 2015).

¹²WEISBERG, *supra* note 6, at 207.

¹³*Id.* at 205.

¹⁴*Id.* at 207.

¹⁵For a comparison of relevant state penalties, see [Appendix A](#).

¹⁶*See, e.g.*, 730 ILL. COMP. STAT. ANN. 5/5-1-9 (West 2022) (“[a felony is] an offense for which a sentence to death or to a term of imprisonment in a penitentiary for one year or more is provided.”).

¹⁷BUZAWA ET AL., *supra* note 11, at 222.

State laws in this realm serve the two main goals of addressing domestic violence: protecting victims from further abuse and holding perpetrators accountable.¹⁸ Thus, many of the measures they establish aim to provide for reporting, monitoring and punishment systems.¹⁹ All state statutes now allow misdemeanor arrests in cases of domestic violence and provide for immediate arrest for the violation of a civil restraining order.²⁰ Additionally, state criminal laws encompass more conduct than in the past, allowing arresting officers to consider the totality of the perpetrator's conduct, such as hitting, kicking, and slapping, as opposed to only looking at the most serious offense when determining whether or not to make an arrest.²¹

Domestic violence touches many areas of the law, and the mixture of legal remedies in civil, criminal, and family law, and variegated state by state regulation are revelatory of a lack of comprehensive legal strategy to prevent domestic violence.²² To strengthen efforts to address the issue of domestic violence at the federal level, Congress enacted the Violence Against Women Act (VAWA) in 1994 and renewed the Act in 2000, 2005 and 2013.²³ Domestic violence is a public health issue ordinarily left to the states, but VAWA is justified under the commerce clause.²⁴ As such, VAWA makes domestic violence a federal crime in situations that are sufficiently interstate.²⁵ Aside from the criminal component, VAWA established the National Domestic Violence Hotline.²⁶ VAWA provides for programmatic and research funding to be distributed to state and local governments, as well as civil and criminal causes of action.²⁷ VAWA acts as a support to state funding for victims services, such as Family Justice Centers and shelters.²⁸ However, funding victims services is one of VAWA's biggest challenges because programs across the country compete for federal funding, and may be underfunded even with the state and federal contributions.²⁹ Family Justice Centers combine community and government domestic violence services in one place, including law enforcement and legal services.³⁰ The shelters may provide services such as transitional housing, legal advocacy, court accompaniments, food services and counseling.³¹

Since the passage of VAWA, rates of domestic violence have improved in certain respects.³² For instance, the rate of partner homicide has decreased.³³ However, the improvements have not been consistent across subpopulations.³⁴ The rate of partner homicide decreased overall and the rate decreased the most among black men who were victims, but for many years the rate of partner homicide actually increased among women who have never been married.³⁵

¹⁸Jane K. Stoeber, *Mirandizing Family Justice*, 39 HARV. WOMEN'S L.J. 189, 191 (2016).

¹⁹*Id.*

²⁰EVE S. BUZAWA & CARL G. BUZAWA, *The Evolution of the Response to Domestic Violence in the United States*, in GLOBAL RESPONSES TO DOMESTIC VIOLENCE 74 (Eve S. Buzawa & Carl G. Buzawa eds., Springer Int'l Publ'g 2017).

²¹WEISBERG, *supra* note 6, at 208.

²²*See id.* at 208-09.

²³Consolidated Appropriations Act, 2022, Division W-Violence Against Women Act Reauthorization Act of 2022, Pub. L. No. 117-103, 136 Stat. 49, 840-962.

²⁴*Id.* at 889.

²⁵*Id.*

²⁶*Id.* at 863.

²⁷*Id.* at 847.

²⁸*Id.*

²⁹OFF. ON VIOLENCE AGAINST WOMEN, U.S. DEP'T OF JUST. FY 2018 CONGRESSIONAL SUBMISSION, 4-5 (May 18, 2017) <https://www.justice.gov/file/969026/download> [<https://perma.cc/NZH7-URY8>]; BUZAWA ET AL. *supra* note 17, at 6.

³⁰Stoeber, *supra* note 18, at 191-92.

³¹*See e.g.*, Directory of Assistance Providers for Massachusetts, NAT'L DOMESTIC VIOLENCE HOTLINE, <https://www.thehotline.org/get-help/domestic-violence-local-resources/> [<https://perma.cc/FN44-2JRK>] (select state dropdown menu for Massachusetts) (note that some shelters allow men or boys to stay at the shelter while others do not. Shelters vary in the amount and quality of resources that they provide).

³²BUZAWA ET AL., *supra* note 11, at 5.

³³*Id.*

³⁴*Id.*

³⁵*Id.*

While federal and state laws that enhance criminal law incentives to prevent domestic violence serve an important purpose, the criminal justice system is an “often blunt and inexact” method of addressing domestic violence.³⁶ This is because the criminal justice system is better geared toward isolated instances of assault, while domestic violence is often a pattern of behavior.³⁷ Further, patterns of abuse are often less acute and readily detectable compared with severe, isolated crimes, which are more amenable to the burden of proof in court.³⁸ Lastly, one unintended consequence of the focus on law enforcement is a lack of focus on the cultural and structural causes of domestic violence.³⁹

Although domestic violence affects everyone, women are affected the most. There is a recognition that domestic violence is “intimately connected to male dominance and sexism... because IPV occurs within a culture, created by men, that condones violence as a strategy for dominant people to control subordinate people.”⁴⁰ The social institution of gender is just one of the underlying structural factors that contribute to domestic violence. Additionally, the political and economic inequalities in society contribute to domestic violence by disproportionately putting different social groups in harm’s way.⁴¹ This relationship can be thought of as a cycle, as women are left with unequal access to resources, and are vulnerable to harm as a result, which exacerbates the negative impact on the social determinants of health.⁴² Further, domestic violence often takes place in a realm that is difficult to police due to logistic concerns, such as detecting violence within private residences and gaining entry to the space. Despite state and federal laws that strive to work around the legal complications to addressing domestic violence, the issue remains obscure and rates of abuse remain high.

The structure, public health approach, and social context of mandatory training laws and the efficacy of comparable laws

The beauty industry is a nontraditional space to intervene on domestic violence. However, the mandatory training laws use a combination of public health tools in the unique social context of the beauty salon to provide a personal method to deliver sensitive information. The lack of legal rigidity in the mandatory training laws allows flexibility and victim focus when encouraging victims to seek help. Research from the United States and abroad supports the feasibility and efficacy of intervening in this industry.

Structure

The Illinois mandatory training law is the first in the United States to mandate domestic violence prevention training for salon workers.⁴³ The law mandates licensed professionals in the beauty industry to attend an hour-long domestic violence training called “Listen. Support. Connect.” before

³⁶*Id.* at 9.

³⁷*Id.*

³⁸*Id.* at 11.

³⁹*Id.* at 2.

⁴⁰Jenna Calton et al., *Barriers to Help Seeking for Lesbian, Gay, Bisexual, Transgender, and Queer Survivors of Intimate Partner Violence*, 17 *TRAUMA, VIOLENCE, & ABUSE* 585, 585-600 (2015), <https://journals-sagepub-com.ezproxy.bu.edu/doi/full/10.1177/1524838015585318> [<https://perma.cc/XW4W-44KV>].

⁴¹S.R. Montesanti & W.E. Thurston, *Mapping the role of structural and interpersonal violence in the lives of women: implications for public health interventions and policy*, 15 *BMC WOMEN’S HEALTH* 100 (2015), <https://doi.org/10.1186/s12905-015-0256-4> [<https://perma.cc/6RF7-RY4K>].

⁴²*Id.*

⁴³Phil Kadner, *Law Would Order Domestic Violence Training for Stylists*, *CHICAGO TRIBUNE* (Oct. 26, 2015 at 5:45PM) <https://www.chicagotribune.com/suburbs/daily-southtown/ct-sta-kadner-domestice-violence-st-1027-20151026-column.html> [<https://perma.cc/73DT-JB5R>].

obtaining or renewing a license and the training focuses on awareness and education.⁴⁴ The Illinois law says that a person licensed under the Act “shall not be civilly or criminally liable for acting in good faith or failing to act on information obtained during the course of employment concerning potential domestic violence or sexual assault.”⁴⁵ The salon workers are not mandatory reporters. The law specifically disclaims liability for any salon worker’s action or inaction, includes only a two-hour training requirement and no requirement to report.⁴⁶ Thus, the legal requirements imposed on salon workers in Illinois are minimal.

Tennessee, Arkansas, and Washington passed similar legislation.⁴⁷ The trainings that the laws require are usually based on to the Professional Beauty Association’s training, called “Cut It Out,” which focuses on the three R’s: recognizing signs and symptoms of domestic violence, responding to victims using discrete and empathetic techniques, and referring victims to professional safety resources.⁴⁸ While the Illinois and Tennessee laws require the training for both obtaining and renewing a license, the Arkansas and Washington laws require the awareness training only for initial licensing purposes.⁴⁹ The laws in each state provide that any action or inaction that the salon worker takes cannot allow them to be held civilly or criminally liable.⁵⁰

The public health approach

Mandatory training laws do not mandate reporting. It is therefore important to consider what function they are serving within the broader context of the public health response to domestic violence. Public health practitioners can view the mandatory training laws as a form of social support, a screening tool, or a method of encouraging help-seeking behavior.

Research shows that social support is a protective factor for mental health problems among women who have experienced domestic violence.⁵¹ A sense of social support may enhance a woman’s sense of well-being.⁵² The hair salon is a historically appreciated source of informal support for women in the community.⁵³ Some research shows that the greater access to informal social support that a woman has, the more likely she may be to engage in help-seeking behaviors.⁵⁴ Therefore, the social-support and help-seeking goals likely coexist when a salon worker uses her training to help a client.

Two conditions are necessary for a woman to decide to seek help: (1) recognizing a problem as undesirable and (2) seeing the problem as unlikely to go away without help from others.⁵⁵ If a woman

⁴⁴2016 Laws of Illinois 3432; Maggie Penman, *With New Law, Illinois Stylists Join the Fight Against Domestic Violence*, NPR (Jan. 1, 2017) <https://www.npr.org/sections/thetwo-way/2017/01/01/507770649/with-new-law-illinois-stylists-join-the-fight-against-domestic-violence> [<https://perma.cc/53WT-G3GC>].

⁴⁵2016 Ill. Law 3432.

⁴⁶*Id.*

⁴⁷*Mandatory Domestic Violence Training for Salon Pros – Is Your State on the List? BEHIND THE CHAIR* (Oct. 4, 2017) <https://behindthechair.com/articles/mandatory-domestic-violence-training-salon-pros-state-list/> [<https://perma.cc/E2LD-3ZLS>] (listing many more states that are in the process of passing similar legislation); TENN. CODE ANN. § 62-3-131; H.B. 1720, 91st Leg., Reg. Sess. (Ar. 2017); H.B. 1163, 65th Leg., Reg. Sess. (Wa. 2017).

⁴⁸Jessica McCarihan, *Chicago Says No More leads the way for salon professionals to Listen. Support. Connect.*, CHICAGO SAYS NO MORE (Mar. 16, 2017) <https://chicagosaysnomore.org/chicago-says-no-more-leads-the-way-for-salon-professionals-to-listen-support-connect/> [<https://perma.cc/V8E7-HEFG>]; *Cut It Out*, PROFESSIONAL BEAUTY ASSOCIATION, <https://www.probeauty.org/pba-charities/cio> [<https://perma.cc/7PX8-QHBE>]; Hannah McCann & Kali Myers, *Addressing the silence: Utilising salon workers to respond to family violence*, 00 J. SOC. 1, 4 (2021); TENN. CODE ANN. § 62-3-131.

⁴⁹*Compare* 225 ILL. COMP. STAT. 410/1-13 (2016) *and* TENN. CODE ANN. § 62-3-124 (2022), *with* ARK. CODE ANN. § 17-26-419 (2017) *and* H.B. 1163, 65th Leg., Reg. Sess. (Wa. 2017).

⁵⁰TENN. CODE ANN. § 62-3-124; *see also* 225 ILL. COMP. STAT. 410/1-13 (2016); ARK. CODE ANN. § 17-26-419 (2017); H.B. 1163, 65th Leg., Reg. Sess. (Wa. 2017).

⁵¹Belle Liang et al., *A Theoretical Framework for Understanding Help-Seeking Processes Among Survivors of Intimate Partner Violence*, 36 AM. J. COMTY. PSYCH. 71, 72 (2005).

⁵²*Id.*

⁵³McCann & Myers, *supra* note 48.

⁵⁴Liang et al., *supra* note 51, at 80.

⁵⁵*Id.* at 77.

decides to tell someone about her abusive situation, the reaction of the person she tells may influence her perception of the problem and decision on whether to continue to seek help.⁵⁶ Thus, the salon worker's task in responding to a woman's disclosures, though not shaped by any legal requirements, is an onerous one. The salon worker must understand the imminent danger of the situation and offer the victim help and validation without alarming or upsetting the victim. However, salon workers may be naturally prepared through their line of business to handle these difficult conversations.

Social context

The mandatory training laws aim to use the historically close relationship between the hairstylist and client as an opportunity to intervene in domestic violence. This relationship is of interest because it is not just "close" in terms of divulgence, but also in terms of proximity. As spokeswoman for the Industry Group Cosmetologists Chicago, Vi Nelson, notes, hairstylists can see and feel things other people cannot that may be indicative of violence or abuse, such as a bump or bruise on the back of the head or missing hair.⁵⁷ Illinois State Senator Bill Cunningham, one of the sponsors for the Illinois law, describes the purpose of the bill as connecting victims with services rather than deputizing hair stylists as therapists.⁵⁸ For other segments of the beauty industry, too, working with intimate areas of the body may increase likelihood of a comfort level that permits an intimate disclosure.⁵⁹ Beyond hairstylists, the law also encompasses barbers, cosmetologists, and estheticians as subject to the mandatory training.⁶⁰ I will refer to the beauty professionals covered under the laws as "salon workers" unless I am specifically referring to one type of worker.

There is research that supports intervening in the nontraditional solution of public health intervention in the beauty salon. Hair salons are a place where women are known to feel comfortable to give and get social support in the form of advice, support and sympathy.⁶¹ The intimate space of a salon often cultivates long-term relationships and feelings of trust.⁶² The possibility of disclosure is documented in the research: clients are likely to disclose instances of domestic violence to their hairstylists.⁶³ Salon workers told interviewers that they were already having conversations about domestic violence with their clients, and that they had never had formal training on these conversations before.⁶⁴ The salon workers suggested that the physically close salon space and the acts performed on clients led to a level of emotional intimacy that primed clients to disclose to their hairdressers.⁶⁵ In another study in which stylists specifically asked clients to fill out a survey about history of domestic violence, 20% of women answered positively to at least one screening question.⁶⁶ While the response rate was lower than the researchers anticipated, the results demonstrate that the salon is a feasible screening point.⁶⁷ For men as well, and especially black men, barbershops are a place for socialization and the development of feelings of trust.⁶⁸ In fact, researchers have used barbershops in the past to recruit African American men to join clinical trials for prostate cancer

⁵⁶*Id.* at 73; Jenna Calton et al., *supra* note 40.

⁵⁷Caryn Rousseau, *Stylists to be Trained in Abuse Prevention*, CONCORD MONITOR (Jan. 1, 2017) <https://www.concordmonitor.com/Illinois-law-enlists-hairstylists-to-prevent-domestic-abuse-7220390> [<https://perma.cc/ADQ4-8PHL>].

⁵⁸*Id.*

⁵⁹McCann & Myers, *supra* note 48, at 9.

⁶⁰225 ILL. COMP. STAT. 410/1-13 (2016).

⁶¹Shakti McLaren et al., *Hairdressers as a resource in addressing family violence*, 21 HEALTH PROMOTION J. AUSTRAL. 236, 238 (2010).

⁶²McCann & Myers, *supra* note 48.

⁶³*Id.*

⁶⁴*Id.* at 7.

⁶⁵*Id.* at 9.

⁶⁶Rebecca F. Beebe et al., *Establishing the Prevalence of Intimate Partner Violence Among Hair Salon Clients*, 43 J. COMTY. HEALTH 348, 351 (2018).

⁶⁷*Id.* at 350-51.

⁶⁸Randy A. Jones et al., *Strategies for Recruiting African American Men into Prostate Cancer Screening Studies*, 58 NURS. RES. 452, 454 (2009).

research, capitalizing on the trusting relationships formed in the space.⁶⁹ In one study in the hair salon, stylists used tablets to screen clients for domestic violence after their appointment, and researchers concluded that the hair salon is a workable screening point.⁷⁰ Based on the research, the social context of hair and beauty salons may be a ripe place for domestic violence intervention for all demographics.

The efficacy of comparable laws

While these laws are new and emerging in the United States, there is some evidence specific to their need and efficacy in other nations. In Australia, salon workers underwent HaiR-3r, a comparable training program to Cut It Out, and a subsequent intervention to assess the workers' response to the training.⁷¹ The workers felt that the training was an effective means of encouraging referral without placing overly burdensome requirements on the salon workers.⁷² Additionally, the workers reported that the training made them feel more prepared to have discussions about domestic violence with clients.⁷³

Another Australian study analyzed interventions to increase salon workers' comfort with discussing mental health issues, including family violence.⁷⁴ Researchers found that after the intervention, clients began using the services that the salon workers were trained to recommend. Of the seven salons that participated in the study, at six month follow up, all seven used the referral cards they were provided, six reported using the resource kit, and five noticed the clients taking referral cards.⁷⁵ This study made it clear that providers are interested and willing to learn more about domestic violence to help their clients, and that clients are willing to take advantage of the resources. While these studies show strong support for the utility of mandatory training laws for salon workers, there are additional considerations that add a mix of favorable and problematic elements to the implementation of these laws in the United States.

Implementation considerations, including mandatory reporting; the pandemic; issues of gender, class and culture; and the needs of the salon workers

The flexibility inherent to mandatory training laws provides a favorable contrast to the legal rigidity in mandatory reporting laws. Mandatory reporters were less accessible during the pandemic, despite many salon workers' sustained provision of client services. The training for salon workers should include considerations for clients who come from different social groups and should be adapted as needed to different backgrounds. Lastly, the mandatory training laws suggest many different considerations, but the states that pass the laws must consider the salon workers' needs, as well as their clients'.

Mandatory reporting laws

Although salon workers must complete domestic violence training, they are *not* required to report suspicions of domestic abuse.⁷⁶ The laws can be considered a type of "permissive law," under which the reporters do not face any civil liability and are not required to report.⁷⁷ The lack of required reporting and liability for the salon workers raises questions about what incentivizes the workers to take steps to help

⁶⁹*Id.*

⁷⁰Susan DiVietro et al., *Screening at hair salons: The feasibility of using community resources to screen for intimate partner violence*, 80 J. TRAUMA ACUTE CARE SURG. 223, 224-26 (2016).

⁷¹McCann & Myers, *supra* note 48.

⁷²*Id.* at 8.

⁷³*See id.* at 7.

⁷⁴McLaren et al., *supra* note 61, at 236.

⁷⁵*Id.* at 238.

⁷⁶TENN. CODE ANN. § 62-3-131 (2021).

⁷⁷Joel M. Geiderman & Catherine A. Marco, *Mandatory and permissive reporting laws: obligations, challenges, moral dilemmas, and opportunities*, 1 JACEP OPEN 38, 38 (2019).

their clients at all. The sensitive nature of broaching the subject and potential for danger further augment the concern that workers will be reluctant to intervene. However, there are good reasons why there is no reporting requirement.

First, proponents of the laws stated that the training is meant to function as an impetus to refer women to other services.⁷⁸ Thus, legislators may be less focused on whether the laws serve to empower salon workers to voluntarily report to government agencies than if they are providing salon workers an opportunity to be informed while having hard conversations about domestic violence. Second, mandatory reporting laws raise other issues.

When imposed on healthcare providers, mandatory reporting laws sacrifice patient privacy and confidentiality.⁷⁹ Additionally, mandatory laws do not require healthcare providers to obtain their patient's consent before they report a suspected victim of domestic violence to the police.⁸⁰ Overriding the patient's autonomy in this manner may cause patient distrust of a provider.⁸¹ As previously discussed, the victim's first experience disclosing may impact her subsequent decisions on whether and how to seek help.⁸² Thus, if she has a negative experience as a result of mandatory reporting laws she may be less inclined to continue to seek out help.⁸³ Further, mandatory reporting laws leave no room for judgment on the part of the provider, whereas the permissive reporting laws leave room for deciding if the stylist wants to report and if she wants to say anything to the client.⁸⁴ This is helpful because the stylist's personal judgment and tone are precisely what make the interaction more personal than with police or other mandatory reporters. However, permissive reporting laws allow for a level of judgment that may correlate to biases.⁸⁵ Similarly, though, it cannot be said that the same issue does not occur under mandatory reporting laws because there must be a basis of suspicion before the report of abuse, and the reporter may have biased suspicion based on what sex, socioeconomic or cultural group the patient belongs to.⁸⁶

Unlike other mandatory reporting laws, mandatory reporting laws for domestic violence are highly controversial.⁸⁷ Opponents cite the lack of evidence that mandatory reporting improves victim safety and access to resources.⁸⁸ Mandatory reporting laws may even put victims at increased risk if they know of the laws and decide to withhold information from their providers.⁸⁹ Studies show that health care staff fail to identify the vast majority of domestic violence victims.⁹⁰ It should be noted that the one-hour training for hairstylists likely does not rise to the same level of preparedness as the training for a healthcare provider, and the lack of liability raises questions about whether salon workers will be willing to intervene. Yet there are benefits to the less formal salon worker approach: a salon worker is able to enter into discussion about domestic violence with her client voluntarily, without the same concern for legal requirements.⁹¹ The salon worker has more flexibility and potentially more personal connection as a result, compared with the rigid inquiry of mandatory reporters.⁹²

⁷⁸See Caryn Rousseau, *supra* note 57.

⁷⁹Geiderman & Marco, *supra* note 77, at 39.

⁸⁰*Id.*

⁸¹*Id.*

⁸²Liang et al., *supra* note 51, at 80.

⁸³*Id.*

⁸⁴Compare Joel M. Geiderman & Catherine A. Marco, *Mandatory and permissive reporting laws: obligations, challenges, moral dilemmas, and opportunities*, 1 JACEP OPEN 38, 39 (2019) ("Mandatory reporting laws ... leave no room for judgment on the part of the provider"), with 2016 Ill. Laws HB3432 (no liability for reporting or failing to report to the police).

⁸⁵Geiderman & Marco, *supra* note 84.

⁸⁶*Id.*

⁸⁷*Id.*

⁸⁸*Id.* at 42.

⁸⁹*Id.*

⁹⁰Alice Kramer et al., *Prevalence of intimate partner violence and health implications for women using emergency departments and primary care clinic*, 14 WOMEN'S HEALTH ISSUES 19, 20 (2004).

⁹¹2016 Ill. Laws HB3432.

⁹²Compare Joel M. Geiderman & Catherine A. Marco, *supra* note 84, with 2016 Ill. Laws HB3432.

Further, many victims may want to avoid police involvement. Most cases of domestic violence are not reported to the police.⁹³ Many women fear that police response is ineffective or potentially even harmful to their situation. These fears arise from police actions such as failing to arrest or correctly identify the abuser, and not listening to or stereotyping the woman who reports.⁹⁴ Though police serve an important purpose in responding to call when a victim is in immediate danger and enforcing protective orders, the contrast between the formalistic police approach and the less formal salon worker referrals may be a point of merit to many victims.

The COVID-19 pandemic

The issue of domestic violence was exacerbated by the COVID-19 pandemic. The national Commission on COVID-19 and Criminal Justice (NCCCJ) reported that domestic violence incidents rose by about 8.1% during the lockdowns imposed by state governments.⁹⁵ While the NCCCJ hypothesized that the increase in incidents may be due to economic constraints, it may also be related to the long duration of close proximity between partners.⁹⁶ Ongoing close contact without the typical reasons to leave the home may serve to escalate tensions within the relationship, and impose an inability to flee or seek shelter.

Typical mandatory reporting laws such as those for doctors and teachers have been displaced by the COVID-19 pandemic.⁹⁷ In a report by the Governmental Accountability Office (GAO), state agencies reported fears about unreported cases since the start of lockdown.⁹⁸ While it might be assumed that the mandatory training laws would suffer the same fate during the COVID-19 pandemic, the location of beauty salons in a space of social importance may have allowed the stylist-client relationship to continue, and enabled some referral to victims services when necessary. Lockdowns meant fewer opportunities to leave the home—including for salon appointments—creating fewer opportunities for disclosure and discovery of situations of domestic violence. However, many stylists moved underground during the pandemic, and maintained their connection to their clients;⁹⁹ some people may have continued to see their stylists during lockdown.

Women historically have been burdened by beauty standards.¹⁰⁰ Where beauty standards might typically serve to undermine women's confidence—and even her success—during the pandemic it may have been the prompt to go see a beautician and get necessary information to escape a dangerous situation. Further, maintaining appearances is sometimes seen as essential, and as school and work transitioned to Zoom the need to keep up looks was exacerbated in some situations.¹⁰¹ Lastly, whether or

⁹³Patricia Tjaden & Nancy Thoennes, *Extent, Nature and Consequences of Intimate Partner Violence: Findings from the National Violence Against Women Survey: Research Report*, U.S. DEP'T OF JUST. (July 2000).

⁹⁴Liang et al., *supra* note 51, at 77-78.

⁹⁵Eric Levenson, *Domestic violence incidents rose in the US during pandemic lockdowns, analysis finds*, CNN (Mar. 1, 2021, 8:36 AM), <https://www.cnn.com/2021/03/01/us/domestic-violence-pandemic-trnd/index.html> [<https://perma.cc/9RMR-GW76>].

⁹⁶*Id.*

⁹⁷U.S. GOV'T ACCOUNTABILITY OFF., GAO-21-483, PANDEMIC POSED CHALLENGES, BUT ALSO CREATED OPPORTUNITIES FOR AGENCIES TO ENHANCE FUTURE OPERATIONS (2021).

⁹⁸*Id.*

⁹⁹Sirin Kale, *Cut and run: the underground hairdressers of lockdown*, THE GUARDIAN (June 16, 2020, 1:00 AM) <https://www.theguardian.com/fashion/2020/jun/16/cut-and-run-the-underground-hairdressers-of-lockdown> [<https://perma.cc/XVJ3-4SB3>].

¹⁰⁰Ruth La Ferla, *FOMO is Over. Give In to the Joy of Letting Go.*, N.Y. TIMES (Apr. 21, 2020), <https://www.nytimes.com/2020/04/21/style/self-care/fomo-is-over-not-wearing-a-bra-during-quarantine-coronavirus.html> [<https://perma.cc/HN-G8-GGCT>].

¹⁰¹Leslie Goldman, *The inescapable pressure of being a woman on Zoom*, VOX (May 20, 2020, 9:40 AM) <https://www.vox.com/the-highlight/2020/5/13/21248632/work-from-home-zoom-women-appearance-beauty-no-makeup> [<https://perma.cc/65AV-YCCJ>].

not the victim feels they must meet beauty standards, in some cases the beauty salon is one of the few places an abuser will allow the victim to go alone.¹⁰²

Interestingly, many women have decided to discontinue coloring their hair as salons have reopened.¹⁰³ While the mandatory training laws rely on adherence to “traditional” beauty standards to some extent, the historical basis of the law faces challenges as women reject the idea that the hair salon is a necessity.¹⁰⁴ While this movement appears to present a challenge to the basis of mandatory training laws, it is at odds with other trends during the pandemic that have heightened gender dynamics. Women will continue to return to the beauty industry, and salon workers will likely have many clients to serve for the foreseeable future.

Gender, class, and culture

Just as rejection of beauty standards may limit the utility of this referral system, it may have limited efficacy in regards to gender or sexual minority victims of domestic violence. The domestic violence training for salon workers should consider and address the specific challenges for clients who identify as LGBTQ and may be victims of domestic violence. The question of efficacy of referral to victims services among gender and sexual minorities is hard to answer because LGBTQ domestic violence lacks research and a specialized lens.¹⁰⁵ Researchers have found that sexual minorities reported domestic violence rates that were equal to or higher than rates for sexual majority respondents.¹⁰⁶ Jenna Calton et al. described the barriers that LGTBQ survivors of domestic violence may face when seeking help, which include limited understanding of the problem of domestic violence among LGBTQ, stigma, and systemic inequities.¹⁰⁷ Gender-specific narratives of domestic violence do not map onto the experiences of LGBTQ survivors. This not only creates a dearth of applicable frameworks from which to judge an intervention such as the mandatory training laws, but also contributes to the stigma that many survivors see as a barrier to seeking help.¹⁰⁸ While in many cases the survivors’ fear of stigma may come from outside sources and cannot be remedied in the moment they are at the hair salon, research also shows that LGBTQ survivors are largely dissatisfied with formal support services.¹⁰⁹ Thus, the victim may not be looking to take advantage of any resources that the stylist recommends. The hairstylist laws must include an intersectional training that includes LGBTQ-specific provisions so that no matter the client, they are prepared to respond in a sensitive manner.¹¹⁰

It should also be noted that going to a beauty salon may indicate a level of affluence since not everyone can afford a salon and some choose to do their own hair or other beauty services in the home. Beauty is different than practicing medicine because you can provide beauty services without a license. Thus, it is likely that low income people are accessing licensed salon workers and thus domestic violence services referrals at a lower rate because there are options beyond formally licensed salons.

Additionally, there are many cultural factors that may influence a woman’s decision to seek help. Many women fear that mainstream service providers will not be culturally sensitive to their needs. For instance, researchers have found that Haitian women saw the lack of Haitian women’s centers as a barrier to seeking help, and African American women expressed concerns that they would be isolated as the only black people if they sought help.¹¹¹ Immigrant women struggle with language barriers and lack of

¹⁰²Susan DiVietro et al., *supra* note 70, at 222.

¹⁰³Jessica Shaw, *Ditched the Dye During Covid? Maybe Stay Gray.*, N.Y. TIMES (Sept. 22, 2021), <https://www.nytimes.com/2021/09/22/style/gray-hair-women-keep-it.html> [<https://perma.cc/MJW4-AM8Y>].

¹⁰⁴*Id.*

¹⁰⁵Jenna Calton et al., *supra* note 40, at 585-600 (2015).

¹⁰⁶*Id.*

¹⁰⁷*Id.*

¹⁰⁸*Id.*

¹⁰⁹*Id.*

¹¹⁰*Id.*

¹¹¹Liang et al., *supra* note 51, at 77.

education, and women in rural communities struggle with isolation from doctors and other mainstream services.¹¹² Another highlight to mandatory training laws, then, is that there are plenty of culturally specific hairstylists who speak many languages, and practice even in rural communities. So long as they are licensed, they should be prepared to respond to domestic violence complaints from their clients. However, victims may be comfortable with the salon worker, but not with the services to which they are referred.

Salon workers

Lastly, it is important to consider the workers that this law implicates. While research shows that salon workers are actively dealing with these discussions in the work place already, the emotional labor may be heightened by the new level of knowledge and thus, implicit responsibility.¹¹³ Research suggests that even though salon workers are historically known to engage in these difficult conversations, it is important to continue ensuring they are emotionally equipped to handle domestic violence-related subject matter.¹¹⁴ As previously discussed, stylists must tread carefully during these discussions because of the nuanced requirements of providing social support while validating that the situation is undesirable. Although the stylist must tread carefully, it is also possible that this situation is something a stylist is uniquely prepared to handle: emotional labor is a large part of salon workers' job.¹¹⁵

Suggestions

The mandatory training laws are still new, and appear to be spreading. One alternative to passing a mandatory training law could be including advertisements that provide referrals to local victims services on YouTube or similar social media platforms. YouTube is a platform well-suited to this goal because it offers DIY hair and beauty techniques. Therefore, the videos may provide similar services that almost all women seek but with several advantages over the provision of services in a salon. First, the videos are free and available to women from all socioeconomic backgrounds, so long as they have a device to access the video. Women can also obtain the videos more frequently than they would actually go to the hair salon. The videos are more accessible on a personal device which is important both during public health emergencies like the COVID-19 pandemic that prevented women from obtaining services in person, and also from women who are prevented from leaving their home, even for salon services. However, this clearly lacks the social support aspect of talking to a salon worker and receiving validation from them. Additionally, with informational advertisements there is not an accessible avenue to ask follow up questions. In order to strengthen this option, the advertisement should refer viewers to a site that incorporates contact information for follow-up questions as well as an FAQ page.

There are several improvements that legislatures should strive to make to the mandatory training laws. Researchers should analyze the trainings for comprehensiveness and the salon workers' responses to the trainings, and share the results with state governments interested in passing similar legislation. The trainings should include material specific to dealing with LGBTQ domestic violence survivors and should provide an intersectional lens so that salon workers feel prepared to have the discussion with any victim. The laws should provide salon workers with increased emotional support, perhaps through their own focus groups or an avenue to ask questions as they arise in the workplace. These recommendations can be implemented by amending the laws to include information requirements for the training specific to addressing LGBTQ victims' needs and salon workers' needs.

¹¹²*Id.*

¹¹³McCann & Myers, *supra* note 48, at 4.

¹¹⁴*Id.* at 8.

¹¹⁵*Id.* at 4.

Conclusion

As the COVID-19 pandemic comes to an end, more and more people are returning to the hairdresser, getting their nails done, and seeing all of the salon workers they were not able to see for many months. While this return indicates an opportunity for salon workers to check in with their clients and refer them to victims' services if necessary, it is also an opportunity to improve the legislation and trainings so that all parties can maximize the utility of this important social program.

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Appendix A: Crimes of Domestic Violence and Related Penalties by State

Alabama: Alabama states that domestic violence in the first degree is a felony and the penalty is a minimum of a one year term of imprisonment without consideration of parole, and the term is doubled for violation of a protective order.¹¹⁶

Arkansas: Arkansas classifies first degree assault on a family or household member as a class A misdemeanor.¹¹⁷ The penalty for a class A misdemeanor is a term of imprisonment not to exceed one year.¹¹⁸

Illinois: Illinois classifies domestic battery as a class A misdemeanor, or a Class 4 Felony if the person violates a protective order or was previously convicted under this chapter of the code.¹¹⁹ A felony in Illinois is punishable by a sentence of death or at least a year in prison.¹²⁰

Washington: In Washington, domestic violence is the commission of a crime such as assault and battery by either a family or household member or intimate partner.¹²¹ Assault in the First Degree is a class A felony.¹²² Violating a protective order is a class C felony.¹²³ A class A felony is punishable by a term of life imprisonment, a fine of \$50,000 or both.¹²⁴ A class C felony is punishable for a term of up to 5 years, a fine of \$10,000, or both.¹²⁵

¹¹⁶JENNIFER A. BROBST, DOMESTIC VIOLENCE, CRIMINAL OFFENSES AND DEFENSES IN ALABAMA § 22:18 (2022 ed.).

¹¹⁷ARK. CODE ANN. § 5-26-307(A) (2022).

¹¹⁸ARK. CODE ANN. § 5-4-401(B)(1) (2022).

¹¹⁹720 ILL. COMP. STAT. 5/12-3.2(b) (West, Westlaw through P.A. 102-1102 of the 2022 Reg. Sess.).

¹²⁰730 ILL. COMP. STAT. 5/5-1-9 (West, Westlaw through P.A. 102-1102 of the 2022 Reg. Sess.).

¹²¹WASH. REV. CODE ANN. § 10.99.020(4) (2021).

¹²²WASH. REV. CODE ANN. § 26.50.110 (repealed 2021).

¹²³*Id.*

¹²⁴WASH. REV. CODE ANN. § 9A.20.021(1)(a) (2015).

¹²⁵*Id.* § 9A.20.021(1)(c).

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