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State laws on intimate partner violence witnessed by children in the United States

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Abstract

Intimate partner violence (IPV) is common, and almost half of all IPV takes place in relationships with children in the home. We inventoried laws in the 50 states and the District of Columbia in the United States of America (USA) focused on addressing IPV committed in the presence of children, as these laws could help prevent or remediate this critical health and social issue. Using WestLaw, a web-based legal research service, we identified over 1,200 statutes and 500 regulations. We documented the laws' key attributes and heterogeneities and coded 557 laws from 31 states. We determined that the most commonly prescribed penalty was stricter sentencing, followed by mandates to pay for counseling for any child witnesses, separate additional criminal charges, mandated receipt of counseling or intervention services, and a period of supervised parenting. Future research could assess the possible impacts of these laws on children's short- and long-term wellbeing.

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Declarations

Conflict of interest On behalf of all authors, the corresponding author states that there is no conflict of interest.

Keywords

Intimate partner violence; Domestic violence; Child witnessing; Adverse childhood experiences

Introduction

Intimate partner violence (IPV) encompasses physical violence, sexual violence, stalking, and psychological aggression by a current or former intimate partner [1]. In the United States of America (USA), according to National Intimate Partner and Sexual Violence Survey data from 2016 and 2017, almost 1 in 2 women and more than 2 in 5 men reported experiencing contact sexual violence, physical violence, or stalking by an intimate partner in their lifetime [2].

Numerous studies have assessed how commonly children live in homes where IPV occurs and estimate that just less than half to three-quarters of IPV incidents occur in homes with children [3–5]. In Fusco and Fantuzzo's sample, 95% of children in homes with IPV experienced sensory exposure, such as hearing or seeing the violence. Nationally, 7% of children sampled for the 2011–2012 National Survey of Children's Health had witnessed IPV, based on parent report [6]. In the 2011 National Survey of Children's Exposure to Violence (NatSCEV), the oldest youth cohort of the study reported a 28.3% lifetime prevalence of witnessing interparental assault [7]. NatSCEV data also indicate that most (90%) saw the violence directly [8]. Hutchison and Hirschel analyzed interview data from over 400 women in abusive relationships and concluded that the presence of children in the home provided almost no influence on abuse deterrence, the nature or severity of the abuse or injury, nor the victim's decisions regarding contacting police [9].

A meta-analysis of 118 studies identified a significant association between exposure to interparental violence and worse outcomes relative to non-witnesses or children from verbally aggressive homes, and that child witnesses' outcomes were not significantly different from those of physically abused children [10]. The impacts on children associated with witnessing IPV are many, including behavioral issues, such as adjustment difficulties [11, 12], coping deficits [13], externalizing problems [14, 15], impulsivity [14], self-harm [16], substance misuse [17], precocious transitions [18]; mental health challenges like mood and anxiety disorders [16], and post-traumatic stress disorder [12, 19]; internalizing problems such as low self-esteem [10, 20], dysregulation [21], feelings of lacking safety or control [22]; insomnia [15], learning or academic difficulties [23], poor social relationships [15], problems with peers [12, 15]; exposure to other adverse childhood experiences [15, 17], risk-taking behaviors in adolescence and adulthood [24], future victimization from and/or perpetration of IPV in adulthood [4, 15, 25], and poorer health of future offspring [26].

Given these impacts, interventions to lower rates of childhood exposure to IPV have the potential to yield social and health benefits. One common intervention by states is the issuance of laws penalizing perpetration of IPV in the presence of children. We sought to inventory all relevant laws in the 50 states and the District of Columbia (D.C.) in the US

and systematically evaluate their key attributes and heterogeneities so that later studies could evaluate their impacts.

Laws have far-reaching impacts, as they shape the society we live in and the lives of the citizenry. Understanding the effects of laws by measuring and evaluating them can help lawmakers craft legal approaches that best advance the intended objectives. There are many papers in the academic literature that assess policy interventions to address various aspects of IPV, but there is a shortfall of research into the effects of legal approaches to address child witnesses to IPV [27–30].

Data and methods

We began broad background research and, based on initial review of select relevant laws, drafted coding questions. We established a study protocol and updated it to document key decisions during the project. We searched WestLaw Edge, a web-based legal research service using a keyword and Boolean terms and connectors search string (see Supplementary Material: Appendix) in February 2022 for laws currently in effect and identified 1225 statutes and 561 regulations across 51 jurisdictions (50 states and D.C.) that we reviewed for relevance; 554 laws remained in our database[31]. We excluded documents that contained the word ‘hearsay’ from the search string to preclude results based on the search term ‘witness’ that pertain to the rules of evidence for courtroom witnesses, rather than child witnesses to IPV.

We cross-referenced the Child Welfare Information Gateway, a website supported by the Administration on Children and Families to provide information on child welfare law, and identified three additional relevant laws that were not captured in our search and added them [32]. In follow-up, we completed a supplemental WestLaw search using additional search terms based on the three laws identified by the Child Welfare Information Gateway and found no additional relevant laws. The search and coding methods used by the Child Welfare Information Gateway are not openly described; as such we anticipate this publication will provide a transparent and verifiable set that can be used for research.

Using a team that included some coders experienced in empirical legal research methods, some experienced in other qualitative research coding methods, and some novices, we piloted the coding instrument, having each team member individually code the same subset of laws then discussing and revising the instrument to address discrepancies. We coded the laws at 100% redundancy (2 coders per law) on a five-item instrument (see Supplementary Material: Appendix) using the Public Health Law Information Portal hosted by the Centers for Disease Control and Prevention. We coded for variation in the definition of ‘child’ and ‘witness,’ but did not analyze differences in definition of IPV for purposes of efficiency. We resolved all divergences through group discussion.

Results

As of February 2022, 31 states had one or more laws related to children witnessing IPV (see Supplementary Material Table S1 for legal citations). Washington, D.C. did not have relevant laws. Table 1 presents descriptive statistics of the laws. Of the states with relevant

laws, 28 (90%) specified what it meant for a child to ‘witness’ IPV, 22 (71%) specified the maximum age a child is considered a child witness, and 29 (94%) provided a specific penalty.

Example definitions for witnessing include “the child was in a position to see or hear the act” (Alabama), the act was committed “in the physical presence of a child or knowing that a child is present and may see or hear” (Idaho), and the act was committed “within thirty feet of or within the same residential unit as a child...regardless of whether the offender knows the age of the child or whether the offender knows the offense is being committed within thirty feet of or within the same residential unit as the child and regardless of whether the child actually views the commission of the offense” (Ohio).

The prescribed penalties and the maximum age of a child witness are described in Table 2. Where expressly defined within the relevant laws, the maximum age ranged from 13 to 17 years; most laws that included a specific definition selected 17 years as the maximum. Penalties prescribed vary. Most common was stricter sentencing ($n = 21$ states), which ranged from specific term requirements (such as, “the minimum term of imprisonment... shall be double” [Alabama] or the maximum penalties shall be doubled [Idaho]) to more general instructions to consider the child witnessing to be an aggravating factor in sentencing. Some states prescribe a separate additional charge like child endangerment ($n = 4$), require the perpetrator to pay for counseling for child witnesses ($n = 5$), mandate the perpetrator to undergo counseling or an intervention program ($n = 1$), or require a period of supervised parenting ($n = 1$).

Discussion

There is little published research assessing the legal treatment of IPV witnessed by children. We identified and characterized relevant laws in 31 states. Given it is more common than not for states to prescribe specific penalties to perpetrators of IPV committed in the presence of children, much could be learned about the association between these laws and health and other outcomes, such as societal and familial wellbeing. Laws aimed at protecting children from exposure to IPV might serve several purposes, including signaling the societal unacceptability of IPV in the presence of children, providing general deterrence, offering restoration and assistance to victims, and punishing or rehabilitating perpetrators. However, these laws may also carry potential harms, such as discouraging victims from disclosing violence due to fears of involvement with the child welfare system, and negatively impacting the family’s stability—socially, financially, and interpersonally—which could, in turn, increase the risk of IPV.

Outstanding questions of interest include whether laws related to child witnessing provide any of the posited intended consequences (deterrence, restoration, punishment, or rehabilitation), and furthermore whether they are associated with any specific benefits to children, such as a reduction in negative health outcomes, or with any harms. Research could examine the variations in impacts between more punitive penalties (stricter sentencing) and more restorative penalties (requirement to pay for counseling). A longitudinal legal epidemiologic study of the change in law over time (including laws no longer in effect)

and changes in outcomes could assist in determining the impacts. A study examining the variation in state definitions of IPV could also be of value.

Study limitations

We limited our search to statutes and regulations with express language referencing children who witness IPV. Jurisdictions might have laws that impact witnesses to, or perpetrators of, IPV without express reference to child witnesses, for example by affecting rates of or responses to IPV. Additionally, other entities may have policies relevant to how perpetrators of IPV in the presence of a child are penalized, including the federal government, localities, or health and social service agencies, for example, when making custody recommendations. This study captures and describes laws that were in effect as of February 2022; however, laws can change over time.

Conclusions

Witnessing IPV can have a range of negative effects on children across their lifetimes. Most states have laws in effect to address IPV committed in the presence of children, and most commonly these laws apply stricter sentencing to perpetrators. This paper provides a foundation for future research assessing the impacts of these laws.

Supplementary Material

Refer to Web version on PubMed Central for supplementary material.

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Key messages

- Witnessing intimate partner violence as a child is common and associated with a range of negative effects.
- As of February 2022, 31 US states had one or more laws related to children witnessing intimate partner violence.
- 28 states provided a specific penalty, most commonly stricter sentencing for the perpetrator.

Table 1

Characteristics of laws on intimate partner violence witnessed by children

	Yes
State has one or more laws related to IPV in the presence of a child	31
Define “witness”	28 (90%)
Not specified	9 (29%)
13	3 (10%)
14	1 (3%)
15	5 (16%)
16	0 (0%)
17	13 (42%)
Specify penalty (not mutually exclusive)	
Stricter sentencing	21 (68%)
Separate additional charge	4 (13%)
Mandated counseling or intervention program	1 (3%)
Supervised parenting period	1 (3%)
Payment for counseling for the child witness(es)	6 (19%)

Table 2

Prescribed penalties and the maximum age of qualifying child witnesses

State	Penalties	Maximum age of child witness
Alabama	<i>Stricter sentencing</i> : minimum term of imprisonment shall be double without consideration of probation, parole, good time credits, or any reduction in time	13
Alaska	<i>Stricter sentencing</i> : potential sentence outside the presumptive range	15
Arizona	<i>Stricter sentencing</i> : considered an aggravating circumstance when determining sentence and may result in a longer period of incarceration	Not specified
Arkansas	<i>Stricter sentencing</i> : potential enhanced sentence of an additional term of imprisonment of not less than 1 year and not greater than 10 years; additional fine of \$100	17
California	<i>Stricter sentencing</i> : potential sentence exceeding the middle (default) term	17
Delaware	<i>Separate charge</i> : additional charge of endangering the welfare of a child	17
Florida	<i>Stricter sentencing</i> : minimum of 15 days in the county jail for a first offense, 20 days for a second offense, and 30 days for a third or subsequent offense, unless the court sentences the person to a non-suspended period of incarceration in a state correctional facility; Florida criminal punishment code worksheet multiplier of 1.5 for subtotal sentence points (The Criminal Punishment Code worksheet is used to compute sentence length)	15
Georgia	<i>Separate charge</i> : additional charge of cruelty to children punished as follows—in 1st degree: imprisonment 5–20 years; 2nd degree: imprisonment 1–10 years; 3rd degree: misdemeanor upon the first or second conviction, upon conviction of a third or subsequent offense punished as a felony with a fine \$1,000.00—\$5,000.00 or imprisonment 1–3 years both fine and imprisonment	17
Hawaii	<i>Stricter sentencing</i> : court shall consider as an aggravating circumstance when issuing sentencing	Not specified
Idaho	<i>Stricter sentencing</i> : maximum penalties are doubled	15
Illinois	<i>Stricter sentencing</i> : mandatory minimum imprisonment of 10 days or 300 h of community service, or both <i>Pay for counseling</i> : potential liability for the cost of any counseling required for the child	17
Indiana	<i>Supervised parenting</i> : the noncustodial parent's parenting time with the child must be supervised for at least 1 year and not more than 2 years immediately following the crime or until the child becomes emancipated, whichever occurs first	Not specified
Louisiana	<i>Stricter sentencing</i> : additional imprisonment at hard labor for 2–3 years <i>Pay for counseling</i> : perpetrator shall pay all costs of medical and psychological care for any of the children as necessitated by the domestic violence	13
Maryland	<i>Stricter sentencing</i> : imprisonment not exceeding 5 years in addition to any other sentence imposed	17
Massachusetts	No noted criminal penalty; implications for child welfare / custody	Not specified
Minnesota	None	Not specified
Mississippi	<i>Stricter sentencing</i> : the court shall consider it an aggravating factor. Person convicted shall not be eligible for parole until they have served 1 year of their sentence	15
Montana	<i>Stricter sentencing</i> : the judge shall consider the minor's presence as a factor at the time of sentencing	Not specified
Nevada	<i>Pay for counseling</i> : if the child needs counseling as a result, the court shall require the person convicted to reimburse the agency for the costs of any services provided, to the extent of the convicted person's ability to pay	17
New Jersey	<i>Stricter sentencing</i> : the court shall consider as an aggravated circumstance in sentencing	15
North Carolina	<i>Stricter sentencing</i> : class A1 misdemeanor; if sentenced to a community punishment, shall be placed on supervised probation in addition to any other punishment imposed by the court. A person committing a second or subsequent violation shall be sentenced to an active punishment of no less than 30 days in addition to any other punishment imposed by the court	17

State	Penalties	Maximum age of child witness
Ohio	<i>Mandated counseling:</i> requirement that the offender obtain counseling <i>Stricter sentencing:</i> the sentencing court shall consider the offender's conduct to be more serious than conduct normally constituting the offense	17
Oklahoma	<i>Stricter sentencing:</i> imprisonment in the county jail for 6 months to 1 year, or a fine not exceeding \$5,000.00, or both. Second or subsequent offense: imprisonment in the custody of the Department of Corrections for 1–5 years, or a fine not exceeding \$7,000.00, or both	Not specified
Oregon	<i>Stricter sentencing:</i> upgrade to Class C felony charge	Not specified
Pennsylvania	<i>Stricter sentencing:</i> sentencing enhancement within guidelines <i>Pay for counseling:</i> consider ordering the offender to pay the costs or fees associated with the assessment and treatment of the minor for exposure to domestic violence	17
South Carolina	<i>Separate charge:</i> charge of criminal domestic violence of a high and aggravated nature, a felony. Must be imprisoned for no more than 20 years	Not specified
Tennessee	None	17
Texas	<i>Pay for counseling:</i> the court shall order the defendant to pay restitution in an amount equal to the cost of necessary rehabilitation, including medical, psychiatric, and psychological care AND treatment	14
Utah	<i>Separate charge:</i> charge of domestic violence in the presence of a child. If criminal homicide or serious bodily injury results, guilty of a third-degree felony. If not, a class B misdemeanor <i>Pay for counseling:</i> assess against the perpetrator, as restitution, any costs for services or treatment provided to the victim and affected child of the victim or the perpetrator	13
Washington	<i>Stricter sentencing:</i> shall consider as an aggravating factor that can support a sentence above the standard range	17
Wisconsin	<i>Stricter sentencing:</i> shall consider as an aggravating factor	17