

DOMESTIC VIOLENCE



**NEW LAWYER TRAINING
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DOMESTIC VIOLENCE DEFINED



- **Wis. Stat. 968.075**
 - **Must have:**
 - ✦ **The required relationship**
 - ✦ **Behavior specified in 968.075(1)(a)**

THE RELATIONSHIP



- The relationship needed
 - ✦ Domestic relationship
 - ✦ Spouse
 - ✦ Former spouse
 - ✦ Reside with or formerly resided with
 - ✦ Child in common

 - ✦ **Can include parent, child, roommate

REQUIRED BEHAVIOR



- Behavior required – 968.075(1)(a)
 - Intentional infliction of physical pain, physical injury or illness
 - Intentional impairment of physical condition
 - A violation of 940.225 (1), (2) or (3) – [Sexual Assaults]
 - A physical act that may cause the other person reasonably to fear imminent engagement in the conduct described above

DOMESTIC ABUSE REPEATER

Wis. Stat. §939.621



- **TraJa Act**
 - Assembly bill 737 will expand the 10 year look back to out-of-state convictions
 - passed February 15, 2018 to allow out-of-state convictions

DOMESTIC ABUSE REPEATER

WIS. STAT. 939.621



- **Two instances where you can be charged**
 - 939.621(1)(a) – committing an act of domestic abuse within 72 hours immediately following an arrest for a domestic abuse incident
 - ✦ Applies even if there is a waiver of the 72 hour no contact
 - 939.621(1)(b) – 2 prior domestic abuse convictions

DOMESTIC ABUSE REPEATER WIS. STAT. 939.621



- **WHAT TO KNOW**
 - 10 year look back
 - Increases a misdemeanor to a felony
 - Increased penalties
 - ✦ Imprisonment and probation

REPEATERS



DOMESTIC ABUSE REPEATER Wis. Stat. 939.621

- 10 year look back from current offense date
- 2 or more convictions that included DV
- Increases a misdemeanor to a felony offense
- Imprisonment increased **by** not more than 2 years
- Time tolled during any periods of incarceration

HABITUAL OFFENDER Wis. Stat. 939.62

- 5 year look back period
- 1 felony or 3 prior misdemeanor convictions
- Misdemeanor max imprisonment becomes 2 years
- Offense with original max 10 years or less is increased by 2 years if the prior is a misdemeanor. Increased by 4 years if felony
- Offense with original max is more than 10 years is increased by 2 years if the prior convictions are a misdemeanor and by 6 years if the prior conviction was a felony

REPEATERS



- **TAKE AWAY**
- **KNOW YOUR CLIENT'S MAXIMUM PENALTIES**
 - ✦ **You can be charged with both the Domestic Abuse Repeater and Habitual Offender**
 - **BUT**
 - **Overlapping convictions cannot be used**
 - **Meaning the offenses used to determine the Domestic Abuse enhancer cannot be used as a basis for the habitual offender**

CONDITIONS OF RELEASE



- **NO CONTACT**
 - Types:
 - ✦ 72 hour no contact – Wis. Stat. §968.075(5)
 - ✦ 5 day no contact
 - ✦ No violent contact
 - Includes 3rd party contact
- **Absolute sobriety**
- **Safe exchange program**
- **Police escort**

CLIENT INTERVIEW



- **INITIAL MEETING**
 - Cover the basics
 - ✦ Introduce Yourself
 - ✦ Explain what you will cover in this initial meeting
 - ✦ Explain the process
 - ✦ Review bond conditions

CLIENT INTERVIEW



- **INITIAL MEETING cont'd.....**
 - Be prepared to answer some common questions
 - ✦ I called the police, why was I arrested?
 - ✦ He was hitting me, shouldn't we both be arrested and charged?
 - ✦ My girl doesn't want to press charges, wants the charges dropped
 - ✦ She keeps contacting me
 - ✦ How am I suppose to see my children with a no contact
 - ✦ What am I looking at

CLIENT INTERVIEW



- **SUBSEQUENT MEETINGS**

- Get to know your client
- Get to know your alleged victim
- Review discovery
- Develop defenses
- Interview your client
 - ✦ *****GIVE YOUR CLIENT AN OPPORTUNITY TO SPEAK*****
- Give your client an idea of what your next steps will be

WHAT YOU SHOULD KNOW



- **Know your client**
 - Including collateral consequences, ideal resolution, treatment needs
- **Know your victim**
 - Temperament, level of cooperation
- **Know your Judge**
 - Position on domestic violence cases, how she usually sentences, sensitive areas, where you may need to treat lightly, consideration given for proactive steps for treatment, etc.
- **Know your DA**
- **Know your case**

DEVELOP YOUR NEXT STEPS



- **Develop your next steps**
- **Get your investigator on board**
 - Criminal records for witness, police contacts (defendant, victim, witnesses, residence)
 - Interview witness, victim, etc.
- **Client Service Specialist**
- **Request for Substitution**
 - Know your Judge
- **Motion issues**

TRIAL PREPARATION



- **KNOW YOUR JUDGE**
- **KNOW YOUR CASE**
- **KNOW THE DA'S CASE**

TRIAL CONSIDERATIONS



- **GREATER LATITUDE/OTHER ACTS**
 - 904.04(2)(b)1
 - State v. Anton R. Dorsey
- **NO VICTIM**
 - Material Witness Warrants
 - District Attorney's position
 - Judge's Position

SENTENCING



- **Increased Penalties for imprisonment**
- **Firearm Restrictions**
- **Probation**
 - 973.09(2)(b) – for a misdemeanor, the maximum supervision is 2 years
 - ✦ For a felony, maximum term of confinement
- **Prepare your client**