

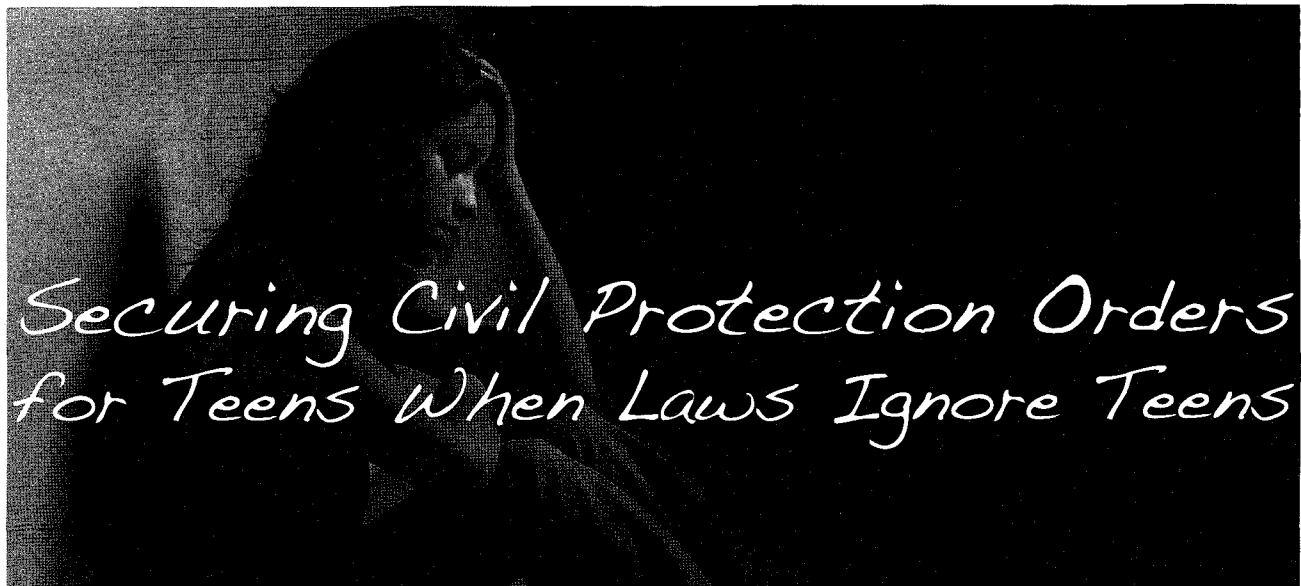
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Securing Civil Protection Orders for Teens When Laws Ignore Teens

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Teen dating violence is widespread today. Women are most likely to experience abuse between the ages of 16 and 24.¹ Approximately one-out-of-every-three teenagers report having been subjected to or threatened with physical or sexual abuse in an intimate relationship.² Of teens 60 percent know a teen who is being abused by an intimate partner.³

Despite the pervasiveness of violence in teen relationships, civil protection-order statutes—the primary source of civil legal protections from abuse for adults in the fifty states and the District of Columbia—largely ignore teens.⁴ The accessibility of protection orders for teens depends primarily on the scope of their rights to standing and legal capacity to pursue claims for protection.⁵ The concepts of standing and capacity often are conflated in statutes and case law, but they involve two distinct inquiries. Standing entails whether an individual has the right to seek legal relief as a party—at all—under a particular cause of action, whereas legal capacity prescribes whether a party has the right to represent the party's own interests in court proceedings.⁶ Because states largely fail to detail expressly the circumstances under which teens are accorded standing to seek protection orders and legal capacity to represent their own interests in related court proceedings, the accessibility of protection orders for teens in most states remains in flux.⁷

¹See Callie Marie Rennison, Bureau of Justice Statistics Special Report, *Intimate Partner Violence and Age of Victim, 1993–99*, at 1, 3 (Nov. 28, 2001), <http://bit.ly/u4cY8H>.

²See TRU, *Teen Dating Abuse Report 2009: Impact of the Economy and Parent/Teen Dialogue on Dating Relationships and Abuse 12* (June 2009), <http://bit.ly/tCDJNB>.

³*Id.* at 13.

⁴See Stacy Brustin, *Legal Responses to Teen Dating Violence*, 29 *FAMILY LAW QUARTERLY* 331, 339 (1995); Roger J.R. Levesque, *Dating Violence, Adolescents, and the Law*, 4 *VIRGINIA JOURNAL OF SOCIAL POLICY AND THE LAW* 339, 342 (1997).

⁵For a detailed analysis of the accessibility of protection orders for teens across the fifty states and the District of Columbia, see my *What's Love Got to Do with It: Securing Access to Justice for Abused Teens*, 61 *CATHOLIC UNIVERSITY LAW REVIEW* (forthcoming 2012).

⁶BLACK'S LAW DICTIONARY 235, 1536 (9th ed. 2009).

⁷See my *What's Love Got to Do with It*, *supra* note 5.

Ambiguity Harmful to Teens

In theory the silence and the ambiguity with regard to teens' rights to standing and legal capacity in most protection-order statutes are somewhat positive since they prompt teens to argue that they are entitled to pursue the remedy on their own terms—an option they would not have were the statutory language expressly to deny them relief. In practice, ambiguity operates to exclude teens from the protection-order remedy and contributes to their vulnerability to continued abuse.

Ambiguity in protection-order statutes harms teens because courts often are reluctant to proceed when confronted with cases involving child parties. Courts' reticence when presented with child parties is a product of the law's treatment of children generally. As a whole, the law says little about children, and much of what it does say about children is aimed at protecting them in light of their immaturity and inexperience.⁸ A prime example is the law's creation of minority status, a legal disability imposed upon children to protect their interests, which, among other results, renders them incapable of entering into many binding legal arrangements.⁹ The protectionist instinct that informs much of the law regarding children encourages judges and clerks to proceed with caution when presented with claims asserted by children, including teens. Protectionist instincts deny teens access to justice by encouraging courts to conclude as a default position that teens lack standing and legal capacity where the law is unclear.

The experience of the District of Columbia is illustrative. Before 2009, the District's Intrafamily Offenses Act was ambiguous regarding whether and under

what circumstances minors had standing and capacity to seek protection orders.¹⁰ During this time teens who sought to file petitions for protection orders without an adult representative often were turned away from the courthouse unless they had counsel, based on the assumption that teens were not entitled to seek relief on their own.¹¹ The recognition of the unevenness of access to justice afforded to abused teens persuaded the D.C. Council to amend the statute to articulate explicitly the scope of minor petitioners' rights to standing and legal capacity. After the amendments took effect in 2009, the court's default response to minor petitioners inverted: the court now assumes that teens are entitled to seek protection orders and routinely permits them to do so independently.¹²

As the experience of the District of Columbia demonstrates, law reforms are needed in most jurisdictions to guarantee abused teens the same civil legal protections extended to adults.¹³ But how can teens obtain protection in the interim? In many jurisdictions, established legal principles and policy arguments support extending rights to standing and legal capacity to teens to seek protection orders under statutes that remain unclear. Here I introduce interim strategies that often enabled teens represented by lawyers to secure protection under D.C.'s formerly ambiguous statute.

Arguments for the Extension of Standing to Minors

To initiate any legal claim, a party must demonstrate that the party has standing, the right to seek legal relief.¹⁴ Protection-order statutes often condition

⁸See DONALD T. KRAMER, *THE LEGAL RIGHTS OF CHILDREN* § 1:5 (2d ed. 1994).

⁹BLACK'S LAW DICTIONARY 70 (9th ed. 2009).

¹⁰D.C. CODE §§ 16-1001(1), (5), 16-1003 (2001) (permitting "any person" to file petition).

¹¹See *Hearing on Bill 17-55, The "Intrafamily Offenses Act of 2007," Before the Committee on Public Safety and the Judiciary Council of the District of Columbia 22-23* (2007) (statement of Karen Cunningham, Director of Legal Services for Women Empowered Against Violence).

¹²Interview with Elisabeth Olds, Coexecutive Director of Survivors and Advocates for Empowerment, in Washington, D.C. (Aug. 25, 2010).

¹³For a more detailed discussion of legislative reforms needed to make civil protection-order statutes effective in protecting teens and proposed legislative language, see my *What's Love Got to Do with It*, *supra* note 5.

¹⁴BLACK'S LAW DICTIONARY 1536 (9th ed. 2009).

standing on the relationship between the parties and the nature of the conduct alleged to have been committed against the petitioner. Protection-order statutes often fail to articulate whether and to what extent standing is conditioned on age.¹⁵ Although such statutes may appear to extend standing equally to all individuals regardless of age, they often are interpreted, in practice, to grant relief only to adults. Nonetheless several established legal principles and policy arguments support extending standing to teens to seek protection orders where there is no evidence of a legislative intent to restrict teens' access to this remedy.¹⁶

The Principle of Liberal Construction.

As remedial statutes, protection-order statutes should be liberally construed to benefit persons subjected to domestic violence.¹⁷ To advance this end, courts must interpret ambiguities in protection-order statutes to maximize the protections they offer.¹⁸ Because protection-order statutes cannot benefit abused teens if they do not extend standing to minors, the principle of liberal construction supports interpreting ambiguous statutes to grant standing to all individuals without regard to age.

Presumption that Minors Have Rights.

As a general matter under state and federal law, teens enjoy the same individual rights and means of legal redress to enforce those rights as adults.¹⁹ Although states may impose greater restrictions on minors' rights in the service of state interests, the law assumes, where they have not clearly done so, that minors are accorded the same rights as adults.²⁰ By outlining the procedures to be followed in cases involving parties, such as minors, who lack legal capacity, statutes and court rules in nearly every state and the District of Columbia presume that minors are entitled to pursue claims for legal relief in court.²¹ Several states go further and explicitly preserve minors' rights to access the courts in their constitutions or codes.²² In short, nearly all states contemplate and several states explicitly guarantee that minors may access the courts to vindicate their legal rights. As a result, courts should not read standing restrictions into protection-order statutes that do not expressly limit access to the remedy by age.

Instilling Public Confidence in the Legal System. Granting standing to minors to seek protection orders advances states' interests in instilling the public's confi-

¹⁵For a detailed analysis of standing provisions in protection-order statutes and their impact on teens, see my *What's Love Got to Do with It*, *supra* note 5.

¹⁶The highest courts in at least two states have also determined that protection-order statutes extend standing to at least some minors based simply on principles of statutory interpretation (see *Hefel v. Thompson*, 577 N.W.2d 643 (Iowa 1998); *Beermann v. Beermann*, 559 N.W.2d 868 (S.D. 1997)).

¹⁷See, e.g., W. Va. CODE ANN. § 48-27-101(b) (LexisNexis through 2011 Reg. Sess); *Cruz-Foster v. Foster*, 597 A.2d 927, 929 (D.C. 1991); *Pechovnik v. Pechovnik*, 765 N.W.2d 94, 98-99 (Minn. Ct. App. 2009); *Frisk v. Frisk*, 719 N.W.2d 332, 335 (N.D. 2006); *Raynes v. Rogers*, 955 A.2d 1135, 1140 (Vt. 2008).

¹⁸See *Katharine B.T. v. Jackson*, 640 S.E.2d 569, 575-76 (W. Va. 2006) (interpreting state's protection-order statute to extend standing to minors based in part on legislature's directive that courts should liberally construe its provisions).

¹⁹See, e.g., *Planned Parenthood of Central Missouri v. Danforth*, 428 U.S. 52, 74 (1976) ("Constitutional rights do not mature and come into being magically only when one attains the state-defined age of majority. Minors, as well as adults, are protected by the Constitution and possess constitutional rights."); *Sorenson v. Sorenson*, 339 N.E.2d 907, 912 (Mass. 1975) ("Children enjoy the same right to protection and to legal redress for wrongs done them" as do adults.); see also *Petersen v. City and County of Honolulu*, 462 P.2d 1007, 1009 (Haw. 1969); *Wilbon v. D.F. Bast Company*, 382 N.E.2d 784, 790-91 (Ill. 1978); *Norris v. Mingle*, 29 N.E.2d 400, 402 (Ind. 1940); *Dunlap v. Dunlap*, 150 A. 905 (N.H. 1930); *Gillette v. Delaware, Lackawanna and Western Railway Company*, 102 A. 673 (N.J. 1917); *Henry v. City of New York*, 724 N.E.2d 372, 374 (N.Y. 1999); *Hunter v. North Mason High School*, 529 P.2d 898, 899 (Wash. Ct. App. 1974); *Lee v. Comer*, 224 S.E.2d 721, 722-23 (W. Va. 1976).

²⁰Some examples of U.S. Supreme Court cases upholding state restrictions on minors' constitutional rights include *New Jersey v. T.L.O.*, 469 U.S. 325 (1985); *Bellotti v. Baird*, 443 U.S. 622 (1979); *McKeiver v. Pennsylvania*, 403 U.S. 528 (1971); *Ginsberg v. New York*, 390 U.S. 629 (1968).

²¹See Sara Jeruss, *Empty Promises? How State Procedural Rules Block LGBT Minors from Vindicating Their Substantive Rights*, 43 UNIVERSITY OF SAN FRANCISCO LAW REVIEW 853, 872-73, 905-9 (2009); Alison M. Brumley, Comment, *Parental Control of a Minor's Right to Sue in Federal Court*, 58 UNIVERSITY OF CHICAGO LAW REVIEW 333, 356 (1991).

²²See Jeruss, *supra* note 21, at 905-9.

dence in the legal system and reducing intimate partner violence. Teens may be reluctant to seek assistance from the legal system in general because they view it as intimidating, ineffective, racist, or unsupportive.²³ Their views may be reinforced if they are refused access to the courts: “Denying a teen-aged litigant access to our courts simply because he happens to be a minor ... tends to lessen the confidence of young people in our legal system.”²⁴ Solidifying the confidence of abused teens in the legal system should be particularly important to states. Teens often do not disclose abuse to anyone, especially to adults.²⁵ Consequently a teen’s attempt to seek a protection order from the legal system may present the first opportunity for intervention in an abusive teen relationship. If a teen is turned away from the courthouse when the teen comes forward to seek help, the teen may be discouraged from further disclosure and remain at risk of further violence. For all of these reasons, extending standing to teens to seek protection orders promotes the public welfare by instilling confidence in the legal system and providing opportunities for intervention in abusive teen relationships.

Legal Capacity

The accessibility of the protection order remedy to teens depends not only on whether teens have standing to pursue the remedy at all but also on whether

they have the legal capacity to represent themselves in related court proceedings. Minors generally lack the capacity to take civil legal action.²⁶ Courts often appoint a parent, guardian, or other adult to represent a minor party’s interests in litigation.²⁷ Perhaps because minors so rarely appear before courts as parties without adult representatives, courts often assume that they are prohibited from adjudicating claims brought by minors who desire to represent their own interests. Although some states mandate the appointment of adults to represent the interests of minor parties in all legal proceedings, many states take a much more flexible approach.²⁸

With the exception of a few progressive jurisdictions, protection-order statutes largely fail to deal with the extent to which teens have the legal capacity to pursue protection-order claims.²⁹ At the same time some of these same jurisdictions impose additional impediments to relief not faced by adults. For example, provisions in California, the District of Columbia, and Tennessee require courts to assess whether a teen’s parent should be notified of protection-order proceedings initiated by the teen without parental involvement.³⁰ These provisions direct courts to evaluate whether permitting a teen to seek a protection order without parental involvement serves a teen’s best interests; yet none guides courts on how to make such determinations.³¹ All of these ambi-

²³Focus Group by Women Empowered Against Violence with Teens, in Washington, D.C. (Dec. 2005 & Jan. 2006) (in my files).

²⁴*Buckholz v. Leveille*, 194 N.W.2d 427, 427 (Mich. Ct. App. 1971).

²⁵Amy Karan & Lisa Keating, *Obsessive Teenage Love: The Precursor to Domestic Violence*, 46 JUDGES’ JOURNAL, Summer 2007, at 23, 24; see also my *What’s Love Got to Do with It*, *supra* note 5, for a detailed discussion of why teens rarely disclose abuse.

²⁶2 THOMAS A. JACOBS, CHILDREN AND THE LAW: RIGHTS AND OBLIGATIONS § 11:13 (2011).

²⁷4 JAMES WILLIAM MOORE ET AL., MOORE’S FEDERAL PRACTICE ¶ 17.21[3][a] (3d ed. 2011).

²⁸See Jeruss, *supra* note 21; see also my *What’s Love Got to Do with It*, *supra* note 5, for a detailed analysis of the treatment of legal capacity in protection-order statutes in the fifty states and the District of Columbia.

²⁹See, e.g., CAL. CIV. PROC. CODE § 372(b)(1)(C)–(D) (West 2004) (according minors 12 and older legal capacity to appear in court without adult representative); CAL. FAM. CODE § 6301(a) (West 2004 & Supp. 2011); D.C. CODE § 16-1003(a)(2) (2011) (permitting minors over 12 to seek protection orders without adult representative); N.H. REV. STAT. ANN. § 173-B:3(I)(b) (2010) (“A minor plaintiff need not be accompanied by a parent or guardian to receive relief”); WASH. REV. CODE § 26.50.020(2)(a) (2011) (indicating that minors who are at least 16 do not need guardian or next friend to pursue order for protection).

³⁰See CAL. CIV. PROC. CODE § 372(b)(2) (West 2004 & Supp. 2011); D.C. CODE § 16-1004(e) (Supp. 2011); see also TENN. CODE ANN. § 36-3-602(b) (2010).

³¹See sources cited *supra* note 30.

guities heighten the challenges involved in counseling teens on the likely consequences of pursuing the protection-order remedy since it leaves advocates unable to predict with certainty whether a teen's parents will be notified of or required to be involved in the proceedings.

Arguments for Extending Legal Capacity to Minors and Overriding Parent Notification Mandates

Statutes that require teens to pursue claims for protection orders through adult representatives or require courts to notify parents if teens initiate protection-order claims independently deter teens from seeking legal relief because teens are often unwilling to disclose abuse to adults.³² Several legal principles and policy arguments support courts extending legal capacity to teens to represent themselves in protection-order proceedings where state laws do not mandate the involvement of an adult representative.

Liberal Construction Revisited and Applied to Capacity. As in the context of standing, the principle of liberal construction supports interpreting ambiguous protection-order statutes to confer capacity on teen petitioners to represent themselves in court proceedings.³³ Protection-order statutes best protect teens subjected to abuse if such statutes accord teens legal capacity because teens are more likely to seek protection orders if they are not required to involve their parents in related proceedings.³⁴

Enabling Minors to Protect Their Health, Safety, and Welfare. Granting minors the legal capacity to represent themselves in protection-order proceedings is consistent with state policies that authorize minors to make autonomous decisions about matters affecting their health, well-being, and safety in other contexts. "Mature minor" statutes in many states permit minors to consent, without parent involvement or notification, to emergency and outpatient medical care, testing and treatment for sexually transmitted diseases, substance abuse treatment, outpatient mental health services, and reproductive health care.³⁵ States have also accorded minors the legal capacity to make decisions about the health, well-being, and safety of their own children without adult involvement. To this end, minors have been granted the right to consent to the adoption of a child, pursue legal claims for child support and custody, and apply for government benefits such as Medicaid and Temporary Assistance for Needy Families.³⁶ By enacting these policies, states have prioritized encouraging minors to avail themselves of services crucial to their health, safety, and well-being over preserving parent control over adolescent decision making.

Courts' Discretion to Permit Minors to Represent Themselves: Rule 17(c). Statutes and court rules governing legal capacity in more than half of states grant courts the discretion to permit a minor party to pursue legal claims without an adult representative.³⁷ Twenty-four

³²See Kristine Herman, Center for Court Innovation, *Youth Dating Violence: Can a Court Help Break the Cycle?* 5 (2004); see also Karan & Keating, *supra* note 25; see my *What's Love Got to Do with It*, *supra* note 5.

³³See note 17, *supra*, and accompanying text.

³⁴But see *Katherine B.T.*, 640 S.E.2d at 577 (declining to conclude that principle of liberal construction supports interpreting state's rules regarding legal capacity, including rule derived from Federal Rule 17(c), to permit minors to proceed without adult representatives in protection-order cases).

³⁵See Heather Boonstra & Elizabeth Nash, *Minors and the Right to Consent to Health Care*, GUTTMACHER REPORT ON PUBLIC POLICY, Aug. 2000, at 4-5.

³⁶See D.C. CODE § 16-914(a-3) (granting minor parents right to initiate custody proceedings); KRAMER, *supra* note 8, § 14:2; Guttmacher Institute, *State Policies in Brief: Minors' Rights as Parents* (Jan. 1, 2012), <http://bit.ly/AEMWgd>; Guttmacher Institute, *State Policies in Brief: An Overview of Minors' Consent Law* (Jan. 1, 2012), <http://bit.ly/zHag4t>; Jodie Levin-Epstein & John Hutchins, Henry J. Kaiser Family Foundation, *Teens and TANF: How Adolescents Fare Under the Nation's Welfare Program* (Dec. 2003), <http://bit.ly/yALUIF>.

³⁷See CONN. GEN. STAT. ANN. § 45a-132(b) (West 2004 & Supp. 2011); N.H. REV. STAT. ANN. § 464-A:41 (LexisNexis 2007); and authorities cited *infra* note 38.

states incorporate nearly verbatim the procedures applied in cases involving minor parties found in Federal Rule of Civil Procedure 17(c).³⁸ Rule 17(c) authorizes adults who share one of several types of relationships with minors to sue on behalf of minor parties and directs that courts “must appoint a guardian ad litem—or issue another appropriate order—to protect a minor ... who is unrepresented in an action.”³⁹ Although Rule 17(c) is often characterized as mandating the appointment of adult representatives for minor parties, courts repeatedly have interpreted Rule 17(c) to afford judges the discretion to proceed without the appointment of a representative so long as the minor’s interests are adequately protected.⁴⁰

The “Bellotti” Test as a Model for Evaluating Minors’ Interests. Although the jurisprudence analyzing Rule 17(c) does not concern how courts should evaluate whether a minor party’s interests are adequately protected without an adult representative, the jurisprudence on whether pregnant minors should be permitted to bypass parent notification requirements of state abortion statutes is a useful model.⁴¹ As articulated in *Bellotti v. Baird*, courts must exempt pregnant minors from parent notification requirements if such minors demonstrate maturity or if that bypass serves

their best interests.⁴² Likewise, courts should conclude that minor petitioners’ interests are adequately protected in protection-order cases where minor petitioners demonstrate maturity or that representing themselves serves their best interests.

Evaluating Maturity. In many cases a minor petitioner’s autonomous decision to seek a civil protection order, itself, will demonstrate the minor’s good judgment and maturity.⁴³ Minors might also demonstrate their maturity through their demeanor, including their analytic ability, thoughtfulness, and ability to articulate their reasons for seeking court protection; life experience, including their educational background, management of personal finances, experience with living away from home, and employment; perspective, including their ability to understand and weigh the consequences of the options available to them; and judgment.⁴⁴

Weighing Minors’ Best Interests. Minors’ interest in safety should be paramount when a court weighs whether permitting minor petitioners to represent themselves in protection-order proceedings serves their best interests.⁴⁵ As the Supreme Court of South Dakota reflected when assessing whether to appoint an adult representative for a minor petitioner in protection-order proceedings,

³⁸See GA. CODE ANN. § 9-11-17(c) (2006); KAN. STAT. ANN. § 60-217(c) (2005); OKLA. STAT. ANN. tit. 12, § 2017(c) (West 2010); S.D. CODIFIED LAWS § 15-6-17(c) (2011); ALA. R. CIV. P. 17(c); ALASKA R. CIV. P. 17(c); ARIZ. R. CIV. P. 17(g); COLO. R. CIV. P. 17(c); DEL. SUPER. CT. R. CIV. P. 17(c); FLA. R. CIV. P. 1.210(b); HAW. R. CIV. P. 17(c); IDAHO R. CIV. P. 17(c); ME. R. CIV. P. 17(b); MASS. R. CIV. P. 17(b); MISS. R. CIV. P. 17(c); MONT. R. CIV. P. 17(c); NEV. R. CIV. P. 17(c); N.M. DIST. CT. R. CIV. P. 1-017(c); N.D. R. CIV. P. 17(b); OHIO R. CIV. P. 17(B); S.C. R. CIV. P. 17(c); TENN. CT. R. ANN. 17.03; VT. R. CIV. P. 17(b); WYO. R. CIV. P. 17(c); see also Jeruss, *supra* note 21, at 875–78, 905–10.

³⁹FED. R. CIV. P. 17(c)(2).

⁴⁰See, e.g., *Gardner v. Parson*, 874 F.2d 131, 140 (3d Cir. 1989); *M.S. v. Wermers*, 557 F.2d 170, 174 (8th Cir. 1977); *Roberts v. Ohio Casualty Insurance Company*, 256 F.2d 35, 39 (5th Cir. 1958).

⁴¹The few cases on this issue hold that a minor party’s interests were adequately protected without an appointed guardian because another adult accompanied the minor to court proceedings (see, e.g., *Cowden v. Ramsay (In re Cowden)*, 154 B.R. 531, 535 (Bankr. D. Ark. 1993)). See also Brumley, *supra* note 21, at 348–55, for a related argument that courts should apply the *Bellotti* test to determine whether a minor should have a right to sue over parental objection on an issue normally reserved to parental discretion.

⁴²*Bellotti v. Baird*, 443 U.S. 622, 643–44 (1979).

⁴³See *In re Anonymous*, 782 So. 2d 791, 793 (Ala. Civ. App. 2000).

⁴⁴See, e.g., *H.B. v. Wilkinson*, 639 F. Supp. 952, 954 (D. Utah 1986); *Ex Parte Anonymous*, 806 So. 2d 1269, 1274 (Ala. 2001); *In re Anonymous*, 782 So. 2d at 792; *In re B.S.*, 74 P.3d 285, 290–91 (Ariz. Ct. App. 2003); *In re Doe*, 973 So. 2d 548, 551 (Fla. Dist. Ct. App. 2008); *In re Doe*, 19 S.W.3d 249, 256 (Tex. 2000).

⁴⁵See, e.g., *In re Doe 2*, 166 P.3d 293, 296 (Colo. App. 2007); *In re Doe*, 866 P.2d 1069, 1075 (Kan. Ct. App. 1994); *In re Doe 2*, 19 S.W.3d 278, 282 (Tex. 2000).

“[w]e are not convinced that the need for a guardian at the petition stage outweighs the need for immediate court protection.... In the middle of domestic strife, preserving the mental and emotional health of the vulnerable must override other less compelling interests.”⁴⁶ Particularly if minor petitioners choose not to seek a protection order if a parent or another adult must participate in the litigation, permitting minor petitioners to represent themselves nearly always advances their interests in safety. Courts weighing a minor petitioner’s best interests also might consider the extent to which requiring adult representation could disrupt the minor petitioner’s home life.⁴⁷

“Bellotti” and Parent Notification.

The *Bellotti* jurisprudence also is a useful framework for courts in states that grant legal capacity to minors but require courts to decide whether to notify parents that their minor children have initiated protection-order proceedings.⁴⁸ In California and the District of Columbia, for example, minors aged 12 and older have the capacity to represent themselves in protection-order proceedings under certain circumstances, but when minors initiate such cases, courts must notify a parent unless the court determines that notification would impair the minor petitioner’s best interests.⁴⁹ Just as with assessments of whether minor petitioners’ interests are adequately protected if they represent themselves, court determinations of whether parent notification will harm a minor petitioner’s interests should focus principally on safety.⁵⁰ If notifying a parent risks causing a minor petitioner to abandon a claim for a protection order, forgoing parent notification will nearly always advance the minor’s interest in safety.

Advocacy Road Map

The legal protections available under civil protection-order statutes are as critical to abused teens as they are to adults.⁵¹ Yet the widespread ambiguities in protection-order statutes with regard to teens’ rights to standing and legal capacity often prevent teens from accessing this remedy. I have offered strategies that advocates have successfully pursued to secure protection orders for teens under ambiguous statutes. Because the effectiveness of the arguments suggested varies with jurisdiction, advocates assisting teens in seeking civil protection orders under ambiguous statutes might consider the following questions about the laws in their jurisdictions to implement the strategies proposed above:

Standing

- Does the protection-order statute refer to age when defining who is eligible to seek a protection order?
- Does the protection-order statute explicitly limit protection orders to adults or minors over a certain age?
- Is there case law or legislative history recognizing the protection-order statute as remedial or emphasizing the principle of liberal construction?
- Is there case law recognizing that minors enjoy legal rights, just as adults?
- Is the right to access the courts to seek legal relief guaranteed to minors by constitutional provision, statute, or case law?
- Does the jurisdiction have a statute or court rule designating the procedures to be implemented in cases involving par-

⁴⁶*Beermann*, 559 N.W.2d at 871 (internal citations omitted).

⁴⁷See sources cited *supra* note 45.

⁴⁸For a detailed analysis of parent notification provisions in protection-order statutes, see my *What’s Love Got to Do with It*, *supra* note 5.

⁴⁹CAL. CIV. PROC. CODE § 372 (West, Westlaw through 2011 Reg. Sess.); CAL. FAM. CODE § 6301 (West, Westlaw through 2011 Reg. Sess.); D.C. CODE §§ 16-1003(a), 1004(e) (Supp. 2011).

⁵⁰See *supra* notes 45–47 and accompanying text.

⁵¹See my *What’s Love Got to Do with It*, *supra* note 5, for a detailed discussion of the benefits of the protection-order remedy to teens.

ties lacking legal capacity (thereby implying that they have standing)?

- Is there case law recognizing the state's interests in instilling public confidence in the legal system?

Legal Capacity

- Does the protection-order statute articulate the procedures to be followed when a minor petitioner seeks a protection order?
- Does the protection-order statute specifically articulate whether a minor petitioner is authorized to file a petition for a protection order or participate in related court proceedings without an adult representative?
- Is there case law or legislative history recognizing the protection-order statute as remedial or emphasizing the principle of liberal construction?

- Are there statutes or regulations granting minors the right to consent without parent involvement to matters affecting their health, safety, or welfare, such as emergency medical care, testing or treatment for sexually transmitted diseases, or reproductive health care?
- Does the statute or court rule on legal capacity in civil matters follow Federal Rule of Civil Procedure 17(c)? That is, does the statute or rule permit courts to appoint an adult representative for a minor party or issue another appropriate order?
- If the jurisdiction grants courts the discretion to determine whether to appoint an adult representative for minor parties, what factors demonstrate that minors are sufficiently mature to represent their own interests in the litigation, or that permitting minors to represent themselves serves their best interests regardless of their maturity level?