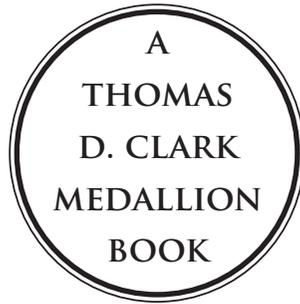


VIOLENCE  
AGAINST  
WOMEN IN  
KENTUCKY

A HISTORY OF U.S. AND  
STATE LEGISLATIVE REFORM

CAROL E. JORDAN

Violence against Women  
in Kentucky



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# VIOLENCE AGAINST WOMEN IN KENTUCKY

*A History of  
U.S. and State  
Legislative Reform*

CAROL E. JORDAN



UNIVERSITY PRESS OF KENTUCKY

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serving Bellarmine University, Berea College, Centre College of Kentucky,  
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*Editorial and Sales Offices:* The University Press of Kentucky  
663 South Limestone Street, Lexington, Kentucky 40508-4008  
www.kentuckypress.com

Figures by Richard Gilbreath, University of Kentucky Cartography Lab.

Library of Congress Cataloging-in-Publication Data

Jordan, Carol E., author.

Violence against women in Kentucky : a history of U.S. and state legislative  
reform / Carol E. Jordan.

pages cm

Includes bibliographical references and index.

ISBN 978-0-8131-4491-7 (hardcover : alk. paper) —

ISBN 978-0-8131-4493-1 (pdf) — ISBN 978-0-8131-4494-8 (epub)

1. Women—Crimes against—Kentucky—History. 2. Family violence—  
Kentucky—History. 3. Rape—Kentucky.—History. 4. Law reform—Kentucky—  
History. I. Title.

KFK1767.W53J67 2014

345.769'02555—dc23

2014003072

This book is printed on acid-free paper meeting  
the requirements of the American National Standard  
for Permanence in Paper for Printed Library Materials.



Manufactured in the United States of America.



Member of the Association of  
American University Presses

A special thank you to our generous sponsors:

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Mark and Kate Neikirk  
Alice Stevens Sparks  
Myra Leigh Tobin  
Orme Wilson



To women around the globe who have faced violence and who are so deserving of justice, and to the advocates who steadfastly took on the fight to achieve freedom for and with them.

To my advocate sisters who championed legislative reforms with me, and to the sense of humor we somehow kept despite the craziness of those days pushing our cause in the halls of the state capitol.

To the Kentucky General Assembly and its select brave members who, year after year, took on our cause as their own.

*À Ma Famille*

À mon père, plus profondément et toujours.

Et à ma mère qui était présent pour chaque instant de ma vie.

À Michel et Bradley, personne d'autre ne peut être aussi bien passé et l'avenir de mon cœur que vous êtes.

Aux trois enfants qui sont venus au monde, vous êtes la source d'une joie sans fin et, si vos parents le croient ou non, la perfection absolue.



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# Preface

If an author must identify the moment when she decided to write a book, for me, it was when I was speaking to a group of women's advocates and they were astonished by the stories I told of the legislative reforms we had made over the past decades. They knew nothing of them. And it was the moment when I noticed that the phone was not ringing as often with people calling to ask me when we had passed a particular piece of legislation addressing rape, domestic violence, or stalking. I took the absence of the ringing phone to mean that this generation of advocates and practitioners was beginning to take reforms for granted, that they did not understand that the protections and services they count on daily were not always available. And it was the moment when a supportive legislator asked me why we advocates were less visible in the halls of the state capitol. And it was certainly the moment when a favorite colleague asked me to write our history. Admittedly, that is four moments, but sometimes it takes repeated encouragement to undertake an awesome task.

This book is a history, a chronicle of legislative reforms related to domestic violence,\* rape, and stalking. In addition to articulating what a book offers, it is important for an author to be clear about what a book cannot achieve. This book, for example, cannot provide a total history of women in Kentucky. To provide context, there are snippets of women's history in Kentucky, but the complete story will not be found here. Nor is this book a comprehensive look at the violence against women movement in Kentucky; it is much more narrowly focused on the legislative reforms we have achieved. As this book goes to print, there are still more stories to be told about our movement, more of a history to be written about the development of

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\*Throughout the book, I use the term *domestic violence* to refer to violence between adult intimate partners. Although advocates and scholars are trending toward the term *intimate partner violence*, I retain the older term here because it has been used in most statutes over the years, including in Kentucky. See chapter 2 for a discussion of the different terms of art used in our field and their significance.

domestic violence programs, rape crisis centers, adult protective services reforms, innovative policies, and more. I encourage my readers to make sure those stories are written. This book is a selective look at legislation—just over 100 bills—that I believe impacted the violence against women movement in Kentucky. Arguably, other advocates could point out important bills that should have been included and perhaps some that should have been left on the cutting room floor.

The book is a history of Kentucky, to be sure, but it also covers national reforms, and its guidance for legislative strategies can be applied to any state. The stories of how Kentucky advocates worked to win passage of controversial reforms will resonate with advocates across the country. In this sense, the book is a case study of one state's experience reforming the law on behalf of battered women and rape survivors.

The latter part of the book contains the legislative chronicle. These chapters tell the tales of reforms that sought to restore justice to those from whom it had been stolen and reforms intended to increase the protection of women and children. These legislative accomplishments took several forms. First, and perhaps most visibly, they amended the criminal law by strengthening existing statutes and creating new ones; they amended civil statutes to adapt to the unique needs of rape, domestic violence, and stalking victims; they created and improved protective and other services for women; they articulated special rights for all crime victims; and, finally, they appropriated funding for the critical network of service providers across the state.

The chronology focuses heavily on legislation proposed and drafted by advocates in the anti-rape and domestic violence communities, but it would not be complete without the inclusion of significant reforms made by the General Assembly on its own or with other interest groups. Inclusion of these bills ensures that rape and domestic violence reforms are placed in the context of the criminal justice system of the Commonwealth and other systems of care and protection. The chronicle, particularly for the decade of the 1970s, also notes key legislative reforms related to the legal status of women, including the Equal Rights Amendment and the state codification of Title IX.

The narratives describing each decade in chapters 6–9 consist of four sections. First, I set the stage by describing the climate of the decade and what celebrations, disasters, and events were

commanding the attention of Kentuckians. The second section turns to the political landscape, recounting elections and changes in power in the capitol and describing the primary policy and budgetary concerns being addressed by the General Assembly. The third section provides the chronology of bills passed. Finally, for select bills, I include the “colorful” stories behind their passage. The importance of these stories cannot be overstated; they not only enlighten readers about what occurred during a certain legislative session but also provide insight into legislators’ and advocates’ working environment—whether that included compelling moments in Kentucky history or mundane fights for political power and influence that either ensured a bill’s passage or led to its demise.

Compiling a history of legislative reforms is no small task. I relied on the resources of the University of Kentucky College of Law Library to secure copies of the legislative records from 1970 to 2012; the Kentucky house and senate journals; and the bound versions of introduced, amended, and final versions of legislation. I also benefited from my own records of legislation passed each session since the beginning of my career in this field—spreadsheets covering 1982 to 2012. Finally, my files also included records from each of the task forces and councils on which I served (or that I staffed), which proposed a significant number of the bills described herein.

Another invaluable source of memories, facts, stories, and opinions was the almost forty interviews I conducted in the course of writing this book. I interviewed advocates who led the legislative reform movement. (I only wish I could have interviewed everyone who contributed in this way.) I interviewed legislators who honorably acted as sponsors and shepherds for our legislation. (I finally got to ask them why they were willing to take on such controversial legislation.) I interviewed governors whose administrations saw the passage of seminal legislation, as well as one very special Kentucky First Lady. Attorneys and legislative staff also offered unique insights. Finally, I am grateful to the family members of women lost to violence and to the women who survived it for their insightful and emotional interviews. Their perspectives enrich this book and remind us why it had to be written.

Storytelling involves some risk for those who undertake it, for it relies on well-intended but fallible memories—memories that were once clear but may have faded with time. I am indebted to all my colleagues and the survivors and family members who shared their

memories to bolster my own and to ensure that the tales told here are true reflections of events occurring in the halls of the General Assembly. Any inaccuracies or omissions are entirely unintended and terribly regretted, even before I know what they are. There is one more caution for readers: This book is intended to be a history and a tool of learning; it is not intended to reflect the current state of any particular statute. For that, advocates should always turn to the statutes and court rules themselves, which are updated annually.

# Acknowledgments

When one person decides to write a book, 200 should duck, because it takes at least that many to make the pages come to life. For this book, there may have been a single author, but I would not have been able to complete the project without the help of many others.

To Pat and John Byron, Paul Doyle, Burniece Whitaker Minix, Lisa Murray, Holly Dunn Pendleton, and Diana Ross, who allowed their stories and those of their daughters and mother to be used in this book.

To the almost forty people who shared their memories and stories in interviews with me, making this book as much theirs as mine.

A special thanks to Steve Wrinn, director of the University Press of Kentucky, whose encouragement and guidance proved priceless. All authors should be as lucky as I was to find a publisher like him.

A grateful nod to Sherry Currens for her invaluable input on draft versions of the book, and to the incredible anonymous colleagues inside of Kentucky and out who reviewed and critiqued the book before it was finalized. And a second nod to Eileen Recktenwald, whose encouragement for me to write this book was among the loudest.

For helping me find historical photographs, I am indebted to John Perkins, Office of the Governor; Lisa Thompson, Kentucky Department of Libraries and Archives; Charlotte Land and Tonya Capito, Legislative Research Commission; Ron Garrison, *Lexington Herald-Leader*; Jaime M. Bradley, Special Collections and Archives at Berea College; Delinda Stephens Buie, Special Collections at the University of Louisville; Jason Flahardy and Deirdre Scaggs, Special

Collections at the University of Kentucky; and Nancy Sherbert, Kansas State Historical Society.

For aiding me with the hours and hours of research the book required, my thanks to Laurie Depuy and Emily Lane, Center for Research on Violence Against Women at the University of Kentucky; Tina M. Brooks, College of Law at the University of Kentucky; Gerald Smith, College of Arts and Sciences at the University of Kentucky; Jamie Lucke, *Lexington Herald-Leader*; Eleanor Jordan, Kentucky Commission on Women; Tim Tingle, Kentucky Department of Libraries and Archives; and Dudley Cotton and Stuart Weatherford, Legislative Research Commission.

# Introduction

The Commonwealth's history is rich with dramatic stories—sometimes glorious and sometimes violent—of coalfields, conflicts, horses, sports legends, and bourbon. These stories not only tell the history of Kentucky but also tie its past to its future, as the lessons of history still inform Kentucky's present. These stories also humorously depict Kentucky as being famous for its fast horses, bourbon, and beautiful women. This characterization would suggest that women are part of the documented annals of Kentucky, but a more serious read of history shows they are not. Historians have been all too silent when it comes to telling the stories of Kentucky women and their experiences.

A vibrant story exists under that silence. And an important part of that narrative involves more than a century of fighting for women's rights. Women have fought for the right to vote, the right to own property, the right to have a job and control their wages, the right to obtain custody of their children, and more. And, with their lives at stake, women have fought to be free from violence. Lost in the silence surrounding women's history in Kentucky are cries that reverberate across generations from women whose lives have been marred by men's violence—unwelcome, unwanted, terrifying violence.

This book's primary aim is to give voice to the stories of Kentucky women who have faced rape, domestic violence, and stalking and to the stories of Kentucky women and their legislative allies who have changed the law on their behalf. There are many ways to recount such a history. This book uses the vehicle of storytelling to share the tales of those who waged the legislative fight for suffrage and other legal rights; those who took up that newfound freedom and devoted themselves to public service; those who undertook the legislative effort to protect women from domestic violence, rape, and stalking; and those who served as the inspiration for these reforms by bravely telling their personal stories of the harshest kind of human cruelty.

The stories of these women were, and are, powerfully interwoven, merging the personal and the political and, in so doing, shaping the women's reform movements of the past century and the law of today.

While the legislative reforms that are central to this book began in the 1970s, the story begins in the nineteenth century, when women first fought for the rights on which we would build our reform efforts a century later (see chapter 1). In the 1900s women's advocates across the country adopted the mantles of the suffrage movement and the temperance movement. Suffrage and temperance issues were aligned because both movements had the mission of freeing women—from legal and social powerlessness and from violence and mistreatment. Reforms achieved in the 1900s brought economic freedom and increased legal standing, and they gave women a voice in the electoral process and a place in public service. After these priority reforms were secured in the 1920s, the women's reform movement seemed less urgent. It became less visible, and the progress in securing women's freedoms slowed for more than forty years.

It was not until the late 1960s that a second reform movement reignited the battle for women's rights. This second wave of the women's movement gave rise to the anti-rape and domestic violence movements, which began in earnest across the nation in the 1970s and combined activism; the development of grassroots, woman-run services for rape victims and battered women; and legislative efforts to reform the criminal and civil justice systems. Prior to these reforms, all too often the U.S. criminal and civil justice systems, rather than alleviating suffering, only extended the trauma experienced by rape survivors and battered women. Many of these women found the justice system a harsh and even punitive place where fairness and protection were lacking. In Kentucky, women who were raped were subjected to a hot and unforgiving spotlight as their rapists' trials began, questioned about their own private sexual histories and asked whether they had really wanted to stop the rape. Others never made it to court, their cases rejected because they did not fight off the rapist with sufficient force or did not report the offense within a certain period of time. Women raped by their spouses learned that the law did not even consider their egregious assaults a crime. Victims of domestic violence found themselves similarly situated, asked by reluctant police officers what they had done to provoke their violent husbands or told there was nothing the law could do. Stalking victims had neither a name nor a law that acknowledged

their experience, much less a remedy. Whether Kentucky women sought justice from the courts or simply protection from future violence, more often than not, they encountered a justice system unable or unwilling to come to their aid. And though it may be startling to today's advocates, prior to the women-led reforms of the 1970s, victims and survivors had to face their ordeals alone, as rape crisis centers and battered women's shelters, which are the bedrock of services today, did not yet exist on the landscape. Women's experiences and the definitions and prevalence of violence are discussed in chapter 2.

The first two decades of the domestic violence and anti-rape movements resulted in more legal reforms for women than the previous three centuries combined. These successes did not come easily, as they were often based on legal treatises and theories that were centuries old. Nonetheless, reform was achieved because of advocates' strong will and insistence that women's lives should be violence free. Chapters 3 and 4 provide an overview of the rape, domestic violence, and stalking legislative reforms taking place across the nation from the 1970s through the 2000s, setting the tone for reforms that would follow in the Commonwealth. Chapter 5 turns from what was accomplished to how it was done, discussing the legislative strategies used and how tomorrow's advocates can continue the reforms of previous generations.

As advocacy grew in communities across the Commonwealth and at the state level, Kentucky women found believers in the General Assembly, legislators in both chambers and from both sides of the political aisle who came together to protect women and improve their lives. Chapters 6–9 provide a decade-by-decade account of the laws specifically related to rape, domestic violence, and stalking that were passed by the Kentucky General Assembly from the 1970s through 2012. Some of the bills found easy passage, while others were so controversial that they seemed to set the capitol on fire. Some were initiated by the legislators themselves, others came from coalitions of advocates, and still others were proposed by executive and legislative branch task forces and councils. Kentucky's first anti-rape legislation passed in 1976, establishing a rape shield law in criminal cases. The first domestic violence laws, passed two years later, created a uniform reporting form for law enforcement agencies and added spouses to the mandatory reporting laws in Kentucky. These earliest bills hint at what is revealed by a forty-year analysis of

Kentucky's legislative reforms: the majority of rape-related reforms over the years have involved changes in the criminal law and in the forensic medical responses to rape, while domestic violence reforms have focused on expanding civil protections and instituting policy and practice reforms directed at law enforcement and prosecutors.

In addition to the legislation specifically targeting violence against women, an equal number of bills with a broader focus have had a dramatic impact on battered women, rape survivors, and stalking victims. These include the Kentucky Penal Code, the Kentucky Rules of Evidence, family court legislation, and others. In combination, the 100-plus laws covered in this book are representative of Kentucky's legislative reforms specifically addressing or dramatically impacting violence against women. Chapter 10 summarizes and analyzes the past four decades of reforms related to domestic violence, rape, and stalking and reflects on how to move forward.

The primary purpose of this book is to use the vehicle of storytelling to chronicle Kentucky's legislative response to rape, domestic violence, and stalking from 1970 to 2012. It tells the stories of bills passed and a few that failed; the stories of brave advocates and those who were successful because they just acted like they were brave; the stories of honorable legislative champions and others whose roles in our legislative history would earn them stellar reputations in the anti-rape and domestic violence communities. And throughout this chronicle, there are stories of survivors and their families who helped shaped legislative ideals and inspired their passage.

Beyond giving a colorful recitation of individual bills and their passage, this book reminds us that when the Constitution of the Commonwealth was adopted in the nineteenth century and when the state's first penal code was written, the laws that now protect battered women and rape survivors did not exist. Each law that now shields a woman from harm or ensures her justice after experiencing violence resulted from the efforts of advocates who, year after year and session after session, made their presence known in the state capitol and insisted that changes be made. The fact that the strength of our current laws is the result of long-fought battles should never be forgotten by today's advocates. The new generation of women's advocates who inhabit the halls of state capitols and staff crisis programs is part of a profoundly important and successful movement of reformers who began their work decades ago.

This book is also intended to remind readers that what has been hard won is not necessarily permanently held. Passage of a bill is never the end of a legislative effort. As noted in the 1980s, "The most important part of any legislation is how decision makers put the provisions of the statutes into practice; unfortunately, once legislation is passed, it is mistakenly credited with solving the problem" (Stanko, 1985, p. 165). Clearly, we ignore the implementation of legislative reforms at our peril. As so aptly put by Susan Schechter, "it is necessary to save what we have won" (Schechter, 1982, p. 4). As legislative reforms are put into practice, the need for additional changes in the law is always revealed. And as the needs of women change, laws must evolve to keep pace. The next generation must be ready to respond to the new wave of legislative reform (see chapter 5).

As every great legislative reform was accomplished, we made a steadfast commitment to the next generation of women that we would devote ourselves to ensuring that their lives would be violence free. To hold steadfast to that promise, we must now affirm anew, this time to the advocates of the next generation, that we will share all we achieved, teach all we learned, and inspire them to achieve even more for Kentucky's women than did we.