

***Legal Action Committee***  
UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

THIRD DIVISION

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Scott Booth, Thomas D. Loyd, Frank Solchaga,  
David Witte, Scott Wyman, Charles Perrin,  
Warren N. Higgins Jr., Knute Gladen, Michael Seeber, Terry  
Nyblom, and Stephen Blake,  
forming the R-KIDS Legal Action Committee,  
in behalf of themselves individually,  
and all others similarly situated,

Plaintiffs

vs.

COMPLAINT

No. 00CV1672MJD/JGL

Sheryl Ramstad Hvass, Commissioner  
Of Corrections; Michael O'Keefe,  
Commissioner of Human Services;  
Charles R. Weaver Jr., Commissioner  
of Public Safety; and Christine Jax,  
Commissioner of Children, Families,  
and Learning for the State of Minnesota,

Defendants

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Come now the plaintiffs, and, as and for their complaint, they allege the following particulars, to  
wit:

A. Jurisdiction

1. This court has jurisdiction under 28 United States Code, Sections 1331 and 1343, insofar as this suit arises under federal law and seeks to redress civil rights under 42 United States Code, Sections 1983 and 1988, and also Amendments XIV and XIX of the United States Constitution.

B. Standing of the Plaintiffs to Sue

2. The plaintiffs are male citizens of the State of Minnesota and of the United States, all of them residents now living and working in the State of Minnesota, all of them regularly paying taxes to the State of Minnesota on income, sales, property, privileges, franchises, transactions, or other objects defined by law.

3. They bring suit in behalf of themselves and other male resident taxpaying citizens similarly situated, to be certified as a class in due course.

4. They bring suit for declaratory judgment that the Minnesota Battered Women's Act is unconstitutional, and for an injunction prohibiting the defendants from allowing any further public spending by the State of Minnesota or any further spending of funds from any other source to support any object certified and approved under the said Act.

5. The Minnesota Battered Women's Act is a statute officially designated as such, codified as [Sections 611A.31 through 611A.36 of Minnesota Statutes](#). It is derived from session laws enacted by the Minnesota Legislature, to wit: Chapter 428 of Minnesota Laws of 1977, Chapter 732 of Minnesota Laws of 1978, Chapter 311 of Minnesota Laws of 1981, Chapter 4 of the First Special Session Laws of Minnesota in 1981, Chapter 262 of Minnesota Laws of 1983, Chapter 545 of Minnesota Laws of 1983, chapter 732 of Minnesota Laws of 1983, Chapter 655 of Minnesota Laws of 1984, Chapter 9 of the First Special Session Laws of Minnesota in 1985, Chapter 444 of Minnesota Laws of 1986, Chapter 629 of Minnesota Laws of 1988, Chapter 689 of Minnesota Laws of 1988, Chapter 272 of Minnesota Laws of 1991, Chapter 571 of Minnesota Laws of 1992, and Chapter 226 of Minnesota Laws of 1999.

6. The defendant Sheryl Ramstad Hvass is the Commissioner of Corrections for the State of Minnesota, and, as such, is charged by law, specifically Sections 611A.33, 611A.34, and 611A.345 of Minnesota Statutes, with the certification, approval, and administration of all programs and spending for such programs under the Minnesota Battered Women's Act.

7. The defendant Michael O'Keefe is the Commissioner of Human Services for the State of Minnesota, and, as such, is charged by law, including but not necessarily exclusive of Section 256D.05,

Subds. 3 and 3a, of Minnesota Statutes, with making certain per diem payments from funds appropriated by the Minnesota Legislature, and perhaps also from funds appropriated by the Congress of the United States for distribution through the several States, to battered women's shelters certified and approved under the Minnesota Battered Women's Act. Nevertheless, administrative responsibility and legislative appropriations for such payments are being transferred under various statutes, including Article 6 of Chapter 216 of Minnesota Laws of 1999, and Article 4 of Chapter 488 of Minnesota Laws of 2000, to the defendant Charles R. Weaver Jr., Commissioner of Public Safety for the State of Minnesota.

8. The defendant Christine Jax is the Commissioner of Children, Families, and Learning, and, as such, is charged by law, including but not necessarily exclusive of Section 120B.22 of Minnesota Statutes, with spending public funds appropriated by the Minnesota Legislature, and perhaps also funds appropriated by the Congress of the United States for distribution through the several States, for violence prevention education, which is substantially influenced by programs administered under the Minnesota Battered Women's Act. Such violence prevention education is but a euphonious name for, and in practical reality amounts to using the classrooms of public schools in the State of Minnesota for indoctrination of children into acceptance of the hereinafter-enumerated defamatory falsehoods about men in general upon which the said Act is premised.

9. The Minnesota Battered Women's Act authorizes the spending of public money appropriated by the Minnesota Legislature and by the Congress of the United States, and also private funds donated to be spent under the rubric of the said Act, under the supervision and administration of the defendant Sheryl Ramstad Hvass as Commissioner of Corrections for certified and approved programs to address domestic violence against women in the State of Minnesota. Such funding is used very largely to subsidize battered women's shelters which are certified and approved by the Commissioner of Corrections for the State of Minnesota. Moreover, battered women's shelters thus certified and approved are also funded by a portion of fines imposed in criminal prosecutions under Section 609.101, Subd.2, of Minnesota Statutes.

10. The said battered women's shelters, funded under and through the Minnesota Battered

Women's Act, house women who claim to have been physically assaulted, or threatened with physical assault by their husbands or male partners with whom they cohabit, and provide them so-called "advocates" who, although not licensed to practice law, are nevertheless permitted, whenever it is desired by their managing personnel, to appear and plead causes in state district courts. In such causes before state district courts, advocates paid as employees of the said battered women's shelters regularly secure so-called "orders for protection" which direct that husbands or male partners of their women clients be forthwith evicted from their homes, and forthwith deprived of custodial and parental rights to their children, upon ex parte applications without notice and hearing, under statutes upheld as constitutional in Baker v. Baker, 494 N. W. 2d 282 (Minn. 1992), notwithstanding that such ex parte eviction of any citizen from his dwelling without notice and hearing was earlier found to be a denial of due process of law, and, therefore, unconstitutional in Thiede v. Scandia Valley, 14 N. W. 2d 400 (Minn. 1944), and notwithstanding that such deprivation of custodial and parental rights without notice and hearing was earlier found to be a denial of due process of law, and, therefore, unconstitutional in Thompson v. Thompson, 55 N W. 2d 329 (Minn. 1954).

11. The said battered women's shelters, funded under and through the Minnesota Battered Women's Act, also publish fanatical, irrational, hysterical, sexist literature which maliciously and falsely defames and seeks to generate social and political hatred against men in general, portraying them as the basic cause of all domestic violence and associated acts of cruelty against women in American society. An illustration of such sexist hate literature against men, funded under and through the Battered Women's Act, is a circular published by the so-called "Domestic Abuse Intervention Project" in the City of Duluth, a copy being attached to this complaint as [exhibit 1](#), the likes of which have been distributed in courthouses throughout the State of Minnesota under public auspices, encouragement, and approval.

12. The said battered women's shelters, funded under and through the Minnesota Battered Women's Act, also bring political pressure to bear on public officers of the State of Minnesota to publish fanatical, irrational, hysterical, sexist literature which maliciously and falsely defames and seeks to generate social and political hatred against men in general, portraying them as the basic cause of all domestic violence and associated acts of cruelty against women in American society. An illustration of

such sexist hate literature against men, published on account of political pressure made possible by funding under and through the Minnesota Battered Women's Act, is a circular published by the Dakota County Attorney and the Dakota County Sheriff, a copy being attached to this complaint as [exhibit 2](#), the likes of which have been distributed in courthouses throughout the State of Minnesota under public auspices, encouragement, and approval.

13. The cumulative effect of the said programs and spending under and through the Battered Women's Act is the creation of a prejudicial atmosphere against men in general before the judiciary, especially the family courts of the State of Minnesota, depriving them, because they are men, of equal and impartial justice under law, and creating a dangerous situation in which they may be evicted from their homes and deprived of custodial and parental rights to their children on ex parte application without notice and hearing. The plaintiffs, and thousands of men like them, either have been or may be personally prejudiced by the said cumulative effect of programs and spending under the Minnesota Battered Women's Act.

14. The plaintiffs have no adequate remedy at law.

#### C. The Constitutional Question

15. The Minnesota Battered Women's Act originated in a bill introduced as Senate File No. 124 in the 70th Legislature of the State of Minnesota, entitled "A bill for an act relating to women, establishing pilot programs to provide emergency shelter and support services to battered women, providing funds to establish community education programs about battered women, providing for data collection, waiving certain general assistance eligibility requirements for battered women, appropriating money, and amending Minnesota Statutes 1976, Section 256D.05, by adding a subdivision." This bill was subjected to minor amendments not here material, and, as such, was passed by the Senate and House of Representatives, then approved by the Governor on May 23, 1977 as chapter 428 of Minnesota Laws of 1977, containing the basic structure of the Minnesota Battered Women's Act as it stands today, and never since materially changed.

16. With respect to the said Senate File No. 124, the Journal of the Senate, for the 53rd day of the session, May 12, 1977, pp. 2176-2178, records that a motion was made by Hon. George Pillsbury to strike "women" and insert "persons," etc. so as to make the legislation nondiscriminatory against men, but the amendment was defeated by vote of 15 yeas and 37 nays.

17. With respect to the said Senate File No. 124, the Journal of the House of Representatives, for the 59th day of the session, May 20, 1977, pp. 3216-3218, records that a motion was made by Hon. K. J. McDonald to strike "women" and insert "persons," etc., so as to make the legislation nondiscriminatory against men, but the amendment was defeated by vote of 51 yeas and 72 nays.

18. During the said proceedings concerning Senate File No. 124 before the House of Representatives on May 20, 1977, a particularly acute debate took place in which the main supporter of the bill directed swelling demagogic and propagandist oratory against men as the culprits in all domestic violence in American society, ridiculed the suggestion by opposition speakers that women also initiate and carry out acts of domestic violence, and explained clearly that the bill was intended to benefit women only and to discriminate against men. A transcript of the said proceedings, including all remarks made during the debate as preserved in the official records of the House of Representatives on May 20, 1977, is attached to this complaint as [exhibit 3](#).

19. The Minnesota Battered Women's Act, therefore, rests on the statutory premise that men are the cause of all or virtually all domestic violence, and ordains as public policy that women and only women need to be protected against domestic violence, and that funds under the said Act may be spent for the benefit of women but not men. By virtue of its express language and legislative history, the said Act cannot be read to avoid discrimination against men on account of sex.

20. Even at the time of the said proceedings to adopt the Minnesota Battered Women's Act during the 70th Legislature on the basis of sexist stereotypes against men in general, it was well documented in published empirical studies that women initiate and carry out physical assaults on their partners in a great many cases. And it has since been overwhelmingly established in published empirical studies that, generally speaking, women initiate and carry out physical assaults against their partners as often as men

do, and that in some situations women may be more prone to violence than men, and that female violence is, in any event, a major social problem. In support of these propositions, the plaintiffs offer for judicial notice a bibliography compiled by Dr. Martin S. Fiebert of the Department of Psychology in California State University at Long Beach, of one-hundred-seventeen scholarly investigations by qualified scientists, including ninety-four empirical studies and twenty-three articles reviewing and analyzing massive empirical data, the same published over the past twenty-three years. The said bibliography, which is not necessarily exhaustive of all published evidence documenting the approximately equal rates of domestic violence for men and for women, is attached to this complaint as [exhibit 4](#). The evidence covered by the said investigations is proper for judicial notice, because it relates, not to adjudicative facts, but facts which are relevant to the understanding of a legal rule or conclusion. See, e. g., the argument filed in the United States Supreme Court by Louis Brandeis for the State of Oregon in [Muller v. Oregon](#), 208 U. S. 412 (1908).

21. The Minnesota Battered Women's Act is unconstitutional on its face, and, therefore, null and void under the equal protection clause of Amendment XIV, reinforced by Amendment XIX of the United States Constitution, because it overtly discriminates against men on account of sex, because its statutory premise is not well founded in fact, because it relies on over-broad generalities about the differences between men and women, because it rests on fixed notions concerning the characteristics of men and women, and because no extremely persuasive justification can be given for the sex discrimination thereby ordained.

22. At the time the Minnesota Battered Women's Act was originally enacted during the 70th Legislature, and ever since, it has been clear from reported decisions of the United States Supreme Court that the said Act is unconstitutional, as public officers of the State of Minnesota have well known, or should have known. And it so appears from among other cases [Reed v. Reed](#), 404 U. S. 71 (1971); [Stanley v. Illinois](#), 405 U. S. 645 (1972); [Frontiero v. Richardson](#), 411 U. S. 677 (1973); [Taylor v. Louisiana](#), 419 U. S. 522 (1975); [Stanton v. Stanton](#), 412 U. S. 7 (1975); [Craig v. Boran](#), 429 U. S. 190 (1976); [Orr v. Orr](#), 440 U. S. 268 (1979); [Mississippi University for Women v. Hogan](#), 458 U. S. 718 (1982); and [United States v. Virginia](#), 518 U. S. 515 (1996).

23. Notwithstanding that public officers and employees of the State of Minnesota have known, or should have known that the statutory premise of the said Act is groundless in fact, and that the said Act is manifestly unconstitutional under principles repeatedly expounded by the United States Supreme Court, the said Act has been zealously implemented, resulting in the oppression of husbands, fathers, and men in general. Therefore, a special urgency exists, demanding equitable intervention by this court.

WHEREFORE, the plaintiffs pray this court for certification of an appropriate class as may be needed to advance the purposes of this cause; for a declaratory judgment that the Minnesota Battered Women's Act is unconstitutional on its face and, therefore, null and void as if never passed, and that, furthermore, Section 609.101, Subd. 2, of Minnesota Statutes is unconstitutional, and therefore, null and void as if never passed, insofar as it funds battered women's shelters certified and approved under the said Act; and for an injunction against the defendants as public officers of the State of Minnesota from allowing the expenditure of any further funds from whatever source under and through the said Act, or from certifying or approving battered women's shelters under the said Act which may otherwise be funded by public money; together with attorney's fees, costs, and disbursements as allowed by law in suits brought to vindicate civil rights, or upon such other basis as may appear lawful; and for such further or alternative remedy as may be necessary and proper, and in the interests of justice.

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