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Ensuring that Victims of Domestic Abuse are Not Discriminated Against in the Insurance Industry

Michelle J. Mandel

Code Sections Affected

- Insurance Code § 10144.3 (new).
- AB 649 (Napolitano); 1997 STAT. Ch. 176.
- Insurance Code § 676.9 (new).
- AB 88 (Figueroa); 1997 STAT. Ch. 845.

A woman in California was denied life insurance after a review of her medical records revealed beatings by her abusive husband.¹ Insurers viewed her as a high risk applicant.² In 1994, Nationwide Insurance Company turned down an application for insurance following a review of the medical records which included three assaults by a husband against his wife.³

Life insurance companies often discriminate against victims of domestic violence.⁴ Documented stories such as these have resulted in efforts by lawmakers around the country to pass legislation that will protect victims of domestic abuse from discrimination by insurance companies.⁵

1. See Prepared Testimony of the Honorable Deborah Senn, Insurance Commissioner, Office of the Insurance Commissioner State of Washington on Behalf of the Discriminatory Practices Working Group of the National Association of Insurance Commissioners, Before the Senate Committee on Labor and Human Resources, FED. NEWS SERV., July 28, 1995 [hereinafter *Senn*] (providing first hand accounts of insurance discrimination against victims of domestic abuse which were compiled by the Women's Law Project of Philadelphia); see also Kenneth Chutchian, *Committee Acts to Bar Insurance Discrimination*, MAINE TIMES, Feb. 1, 1996, at 8 (reporting that there are a number of documented cases illustrating that insurance companies often discriminate against victims of domestic violence). For example, in 1994 Allstate Company canceled homeowner's insurance of a woman whose ex-husband set fire to their home. The woman had been abused by her husband and left him in 1992. *Id.*

2. See *Senn*, *supra* note 1 (explaining that insurance companies often classify victims of abuse as high risk applicants).

3. Chutchian, *supra* note 1, at 8; see Monica Fountain, *Insurance Companies Hit Battered Women Too*, CHI. TRIB., June 4, 1995, at 1 (stating that in 1994, Jody, a mother of three with a history of a violent marriage, was denied a life insurance policy with Nationwide). Nationwide notified her that she was turned down for "confidential medical reasons" and an "unstable family environment." *Id.*

4. See ASSEMBLY COMMITTEE ON INSURANCE, COMMITTEE ANALYSIS OF AB 588, at 2 (May 13, 1997) (reporting that a Congressional study conducted in 1994 showed that some of the country's largest insurance companies discriminate on the basis of domestic violence); see also Diana Griego Erwin, *Some Insurance Policies Add to Abuse of Women*, SACRAMENTO BEE, Mar. 2, 1995, at A2 (explaining that the reason insurance companies deny insurance to battered women are: (1) The women are partially to blame for staying in an abusive relationship; and (2) a batterer may have a financial incentive to kill his spouse to collect on a life insurance policy).

5. See Andrea Gerlin, *States Adopt Measures to Protect Abuse Victims From Insurers' Bias*, WALL ST. J., Feb. 8, 1996, at B11 (reporting that states are adopting laws and introducing new legislation for the purpose of curbing the discriminatory practices of insurance companies against victims of domestic violence).

I. INTRODUCTION

Domestic violence is a serious problem which has resulted in large costs.⁶ Reports estimate that approximately four million women are beaten annually by their partners.⁷ In the last 30 years, there has been an increased awareness of the prevalence of domestic violence in our society.⁸

The recognition of the domestic violence problem in our society has led to increased documentation of the abuse.⁹ The increase in documentation of domestic violence has not been entirely positive. Insurance companies use medical and police reports to deny insurance coverage to victims of domestic abuse.¹⁰ Victims of domestic violence are often denied insurance because it is thought that they will use health care services disproportionately.¹¹ This has resulted in a dilemma for victims of domestic violence between reporting the abuse and obtaining insurance. The discriminatory practices of insurance companies creates another obstacle keeping women from leaving the abusive situation.¹² On the one hand, the victims may need medical or police assistance. On the other hand, the victims realize that if they seek medical care or report the abusive incident they may be jeopardizing their ability to receive insurance.¹³ This dilemma has caused the California Legislature to pass legislation prohibiting insurance companies from discriminating on the basis of domestic violence.¹⁴

6. See *id.* at 264 (reporting that domestic violence costs approximately \$6.5 billion annually in the United States). In addition, medical treatment for abuse related injuries costs approximately \$31 billion annually. The United States Surgeon General reported that the greatest cause of injury among women is battering. *Id.*

7. See *id.* (stating that the number of women who are battered is grossly underestimated because many incidences of domestic violence go unreported).

8. See Ellen J. Morrison, *Insurance Discrimination Against Battered Women: Proposed Legislative Protections*, 72 IND. L.J. 259, 259 (1996) (explaining that the increased awareness of the domestic violence problem in our society is in part due to the efforts of advocates to educate the public).

9. See *id.* at 259-60 (explaining that the efforts of advocates to educate the public about the severity of domestic violence have resulted in more victims coming forward to report the abuse).

10. See Margo L. Ely, *Abuse Victims Face New Battle: Insurance*, CHI. DAILY L. BULL., May 12, 1997, at 6 (explaining that insurers view women who are battered as higher insurance risks).

11. See Deborah S. Hellman, *Is Actuarially Fair Insurance Pricing Actually Fair? A Case Study in Insuring Battered Women*, 32 HARV. C.R.-C.L. L. REV. 355, 387 (1997) (explaining that victims of domestic abuse are likely to be abused in the future, and therefore are likely to sustain injuries requiring medical treatment).

12. See Morrison, *supra* note 8, at 268 (stating that victims may stop reporting incidents of domestic violence if it endangers their ability to receive insurance). In addition, doctors and health care workers may also stop reporting domestic violence in order to protect victims' insurance coverage. As a consequence, many victims of domestic violence are faced with two dismal options; poverty or staying with the abuser. *Id.*

13. *Id.* at 260; see *id.* at 266 (reporting that when Pennsylvania's insurance companies documented the expenses caused by battering; the costs were so high that many insurance companies began to deny insurance to victims of domestic abuse based on this study).

14. See CAL. HEALTH & SAFETY CODE § 1374.75 (West Supp. 1996) (stating that "no health care service plan shall deny, refuse to renew, cancel, restrict, or charge a different rate on the basis that the applicant is, or has been, a victim of domestic violence"); see also CAL. INS. CODE § 676.9 (enacted by Chapter 845) (stating that "no insurer issuing policies of insurance against residential, liability, and commercial risks may deny, refuse to renew, cancel, or restrict on the basis that the applicant has been, is, or may be, a victim of domestic violence"); *id.* §

II. LEGAL BACKGROUND

A. Existing Law

Existing law places few restrictions and regulations on insurance companies' ability to rate, underwrite, accept, or deny applications for insurance.¹⁵ Insurance companies decide who they will insure according to a statistical analysis of risks.¹⁶ For example, an insurance company will look at a person's medical records for pre-existing conditions such as domestic abuse, cancer, or other illnesses.¹⁷ They justify risk rating on the theory that people who participate in high risk activities are more likely to incur higher bills and therefore should be charged higher rates.¹⁸ The result of existing law is that insurance companies are given great discretion in making underwriting decisions, and the underwriting criteria are rarely regulated or reviewed.¹⁹

Current law prohibits insurance companies from discriminating on the basis of race, creed, color, religion, marital status, national origin or ancestry.²⁰ The new law seeks to prevent discrimination against those who are victims of domestic violence.

The California Legislature has already taken steps to regulate insurance companies by passing legislation that prohibits health insurers from discriminating against victims of domestic violence.²¹ Chapter 176 and Chapter 845 are similar enactments. Chapter 176 prohibits life insurers from discriminating on the basis of domestic violence,²² and Chapter 845 prohibits discrimination by property and casualty insurers based on domestic violence.²³

10144.3 (enacted by Chapter 176) (stating that "no insurer licensed to issue life insurance shall deny, refuse to renew, or cancel a policy because the person is, or has been, a victim of domestic violence").

15. See ASSEMBLY COMMITTEE ON INSURANCE, COMMITTEE ANALYSIS OF AB 649, at 1 (May 13, 1997) (noting that existing law allows life insurers to use the underwriting criteria that they believe is appropriate).

16. See *id.*; see also Morrison, *supra* note 8, at 269 (stating that insurance companies justify using a statistical system of rating because it is fair and efficient).

17. See Morrison, *supra* note 8, at 281 (explaining that some insurance companies look at past medical records for preexisting medical conditions in order to deny insurance to applicants who have a history of domestic abuse).

18. See *id.* at 269 (stating that some insurance companies believe that this model deters individuals from engaging in high-risk activities in order to avoid higher coverage prices).

19. See *id.* at 269 (acknowledging that the lack of regulation of underwriting decisions allows the potential for abuse).

20. CAL. INS. CODE § 679.71 (West 1993).

21. See CAL. HEALTH & SAFETY CODE § 1374.75 (West Supp. 1996) (prohibiting health insurance companies from using domestic violence as an underwriting criteria to deny coverage).

22. CAL. INS. CODE § 10144.3 (enacted by Chapter 176).

23. *Id.* § 676.9 (enacted by Chapter 845).

B. Chapter 176

The purpose of Chapter 176 is to expand the provisions of existing law, which are applicable to health insurance, to include life insurance.²⁴ In addition, the author of Chapter 176 believes that if insurance companies deny insurance based on domestic violence women will forego medical treatment or fail to report the crime to the police.²⁵

Chapter 176 prohibits life insurance companies from discriminating against victims of domestic violence.²⁶ Chapter 176 allows life insurance companies to use medical conditions as a criteria in the underwriting process as long as they do not take into account whether or not the condition was caused by an act of domestic violence.²⁷

C. Chapter 845

Chapter 845 is similar to Chapter 176 except that it addresses property and casualty insurance.²⁸ Chapter 845 prohibits property and casualty insurers from discriminating based on domestic violence.²⁹ Domestic violence is defined according to section 6211 of the Family Code as abuse against a spouse or former spouse, a person with whom the abuser is having or has had a relationship with, a person with whom the abuser has had a child with, or a child.³⁰ Under Chapter 845 insurance companies are not allowed to disclose information about the victims of domestic abuse except when it is required by law.³¹ The author introduced Chapter 845 to stop discrimination against victims of domestic violence who are often working to pick up the pieces of their lives.³²

24. See ASSEMBLY COMMITTEE ON INSURANCE, COMMITTEE ANALYSIS OF AB 649, at 1 (May 13, 1997).

25. See *id.* at 1-2.

26. CAL. INS. CODE § 10144.3 (enacted by Chapter 176); see ASSEMBLY COMMITTEE ON INSURANCE, COMMITTEE ANALYSIS OF AB 649, at 1 (May 13, 1997) (stating that Chapter 176 specifies that an insurance company may use medical conditions in the underwriting process as long as the condition does not take into account whether or not the condition was caused by an incident of domestic violence).

27. CAL. INS. CODE § 10144.3 (enacted by Chapter 176).

28. See ASSEMBLY COMMITTEE ON INSURANCE, COMMITTEE ANALYSIS OF AB 588, at 1 (May 6, 1997) (stating that Chapter 845 prohibits property and casualty insurers from discriminating against victims of domestic violence)

29. See *id.*

30. CAL. INS. CODE § 676.9 (enacted by Chapter 845); see CAL. FAM.CODE § 6211(a)-(d) (West 1994) (defining "domestic violence" as "abuse perpetrated against a spouse or former spouse, a cohabitant or former cohabitant, a person with who the abuser is or has been dating or has an engagement relationship with, a person with whom the respondent has had a child or a child who is the subject of an action under the Uniform Parentage Act").

31. CAL. INS. CODE § 676.9 (enacted by Chapter 845); see ASSEMBLY COMMITTEE ON INSURANCE, COMMITTEE ANALYSIS OF AB 588, at 1 (May 13, 1997).

32. See ASSEMBLY COMMITTEE ON INSURANCE, COMMITTEE ANALYSIS OF AB 588, at 1 (May 13, 1997).

D. Supporters of Chapter 176 and Chapter 845

Supporters of Chapters 176 and Chapter 845, including advocates against domestic violence, medical professionals, and the Department of Insurance, point out that the severity of domestic abuse in our society creates the need for legislation that will protect victims of domestic violence.³³ The California Medical Association (CMA) asserts that insurance discrimination deters women from seeking medical treatment and from reporting the abuse.³⁴ The CMA believes that Chapters 176 and 845 will help alleviate this problem.³⁵ The Proposition 103 Enforcement Project³⁶ believes that Chapters 176 and Chapter 845 provide necessary safeguards for victims of domestic abuse who are a vulnerable class of consumers in need of special protection.³⁷

E. Opponents of Chapter 176 and Chapter 845

The National Association of Independent Insurers opposes Chapter 176 and Chapter 845 claiming that insurance companies should be free to make underwriting decisions that are appropriate given varying circumstances.³⁸ In addition, they argue that premiums for victims of domestic abuse should be higher because the risks of insuring them are higher.³⁹

The Department of Insurance supports Chapters 176 and Chapter 845, but is concerned that a batterer may benefit from the abuse.⁴⁰ The American Insurance Association objects to Chapter 176 and Chapter 845 on the basis that there is a potential for fraud when the victim is co-insured on the policy with the perpetrator.⁴¹

33. See *id.* at 2 (reporting that domestic abuse is the second leading cause of injury among women, and is the leading cause of injury in women between the ages of 15-44).

34. See *id.* (noting that supporters of Chapter 845 state that protective measures need to be taken so that the abuse does not continue once the violence has ended). The CMA believes that insurance discrimination stands as an obstacle to women who report the acts of violence to the authorities. *Id.*

35. See *id.* (stating that the CMA hopes that Chapter 176 and Chapter 845 will make victims more willing to report incidents of abuse because they will not have to face insurance discrimination).

36. *About the Proposition 103 Enforcement Project* (visited Aug. 10, 1997) <<http://www.primenet.com/network/prop103/>> (stating that the Proposition 103 Enforcement Project was created in 1993 to represent California consumer interests relating to insurance matters). Proposition 103 is a California insurance reform initiative approved by voters in 1988. *Id.*

37. See ASSEMBLY COMMITTEE ON INSURANCE, COMMITTEE ANALYSIS OF AB 588, at 2 (stating that the Proposition 103 Enforcement Project believes that insurance should be available for all consumers).

38. *Id.* at 3.

39. *Id.*

40. See *id.* at 2 (indicating that a batterer has an incentive to kill his partner in order to collect on her life insurance policy).

41. *Id.* at 3.

F. Similar Legislation

In the last two years there has been a large influx of legislation regarding discriminatory practices used by insurance companies against victims of domestic violence.⁴² As a result, legislation has been enacted in 16 states to protect victims of domestic violence from discrimination by insurance companies.⁴³ Although, none of the proposed federal legislation has been enacted.⁴⁴ This legislative activity throughout the country is likely in response to the apparent correlation between reporting domestic abuse and the denial of insurance coverage.⁴⁵

III. COMMENT

In 1994, Congress enacted legislation which made domestic violence a federal crime.⁴⁶ The passage of The Violence Against Women Act of 1994 illustrates the severity of the problem in our society. Approximately 11,000 women are abused

42. See Hellman, *supra* note 11, at 404 (stating that the legislative activity was directed at restricting an insurer's ability to use domestic violence and abuse victim status in their underwriting and risk rating).

43. See *id.* at 404; see also ARIZ. REV. STAT. ANN. § 20-448 (West Supp. 1996) (prohibiting an insurance company from "denying, restricting, canceling, limiting or refusing to renew coverage based on the fact that the proposed insurer is or has been a victim of domestic violence"); DEL. CODE ANN. tit. 18, § 2304(24)(a) (Supp. 1996) (prohibiting discriminating practices by life and health insurance companies against victims of domestic abuse); FLA. STAT. ANN. § 626.9541 (West 1995) (stating that an insurer may deny insurance based on an applicant's medical condition, but shall not look at whether that condition was caused by an act of abuse); IND. CODE ANN. § 27-8-24.3-6 (Michie Supp. 1996) (restricting an insurer from "denying, refusing to contract with, or refusing to renew based on the fact that the individual has been or has the potential to be a victim of domestic violence"); KAN. STAT. ANN. § 40-2404 (Supp. 1996) (prohibiting insurance discrimination on the sole basis that a person has been domestically abused, yet, an insurance company can continue to underwrite on the basis of a preexisting physical or mental condition, even if that condition was caused by abuse); ME. REV. STAT. ANN. tit. 24, § 2159-B (West 1996) (declaring that an insurer "who issues life, health or disability coverage may not deny, cancel, refuse to renew, or limit coverage based on the fact that the individual is a victim of abuse or has the potential to be a victim of abuse"); MD. CODE ANN., INSURANCE § 234D (Supp. 1996) (declaring that if a proposed insured is a victim of domestic abuse the insurance company may not use information regarding the status of the person as a victim of domestic abuse to deny, cancel, or refuse to renew coverage, increase rates for life insurance, health insurance, or a health benefits plan or apply a rating factor or underwriting practice that takes into account that information); N.M. STAT. ANN. § 59A-16B-4 (Michie Supp. 1997) (prohibiting an insurance company from using an unfair discrimination practice against an individual based solely on their status as victim of domestic abuse); N.Y. INS. LAW § 2612 (Consol. 1997) (prohibiting insurance discrimination against individuals solely on basis that they have been a victim of domestic violence); TENN. CODE ANN. § 56-8-304 (Supp. 1996) (prohibiting unfair discriminatory acts that "deny, refuse to renew, restrict, or cancel a health benefit plan on the basis of the individual's abuse status").

44. See Hellman, *supra* note 11, at 404 (noting that the federal legislation that failed passage in Congress was stronger than the various state legislation that has been enacted).

45. See Gerlin, *supra* note 5, at B11 (quoting Kansas insurance commissioner Kathleen Sebeliu, "Now we find out that the very act of reporting may be the reason why they are denied coverage").

46. See Violence Against Women Act of 1994, Pub. L. No. 103-322, 108 Stat. 1902 (codified as §§ 8, 18, and 42 of the United States Code, Annotated); see also Morrison, *supra* note 8, at 285 (stating that The Violence Against Women Act treats domestic violence as a federal crime, and in addition, treats these crimes in the same light as those motivated by religious, racial, or ethnic bias).

each day by their male partners.⁴⁷ Many battered women try to escape the physical and psychological abuse by leaving their partners.⁴⁸ However, many women return to the abusive situation for financial reasons and because of the abuser's irate response to the victim's departure.⁴⁹ Those women who do manage to escape often continue to be assaulted by their former partner.⁵⁰ Domestic violence is a cycle of abuse from which it is very difficult to escape. The horrors of these statistics create a need for legislation protecting victims of domestic violence.⁵¹ Insurance regulation is one area in which the states have recently enacted legislation in an effort to protect victims of domestic violence from harms beyond the immediate abuse.

A. Policy Issues Supporting Legislation for Victims of Domestic Violence

The Women's Law Project and the Pennsylvania Coalition Against Domestic Violence have been invaluable in conducting studies and supporting legislation aimed at protecting victims of domestic violence from discrimination by insurance companies.⁵² The Women's Law Project and the Pennsylvania Coalition Against Abuse assert that keeping information confidential is essential to the safety of a victim of domestic violence.⁵³ In addition, they argue that disclosures can result in the denial of insurance.⁵⁴

The Women's Law Project claims that insurance discrimination discourages victims of domestic violence from seeking medical treatment and from reporting the abusive incidents.⁵⁵ Women who seek medical treatment for injuries that occur because of domestic abuse are easily discovered by insurance companies because

47. See Morrison, *supra* note 8, at 261; see also Martha Davis & Susan Kraham, *Protecting Women's Welfare in the Face of Violence*, 23 *FORDHAM URB. L.J.* 1141, 1144 (1995) (reporting that between 3 and 4 million women in this country are battered by their husbands, partners, and boyfriends).

48. See Davis & Kraham, *supra* note 47, at 1146 (reporting that between 50% to 90% of battered women try to escape their abusive environment).

49. *Id.*

50. See *id.* (explaining that there are many reported incidents in which a batterer has injured the women in response to her leaving him); see also Godfrey v. Georgia, 446 U.S. 420, 425-26 (1980) (stating that Godfrey murdered his wife soon after she left him and filed for divorce).

51. See Ron Lent, *Domestic Violence Bill Introduced*, *J. COM.*, Feb. 28, 1997, at A8 (quoting Assemblywoman Figueroa, the author of Chapter 176, as stating "Women escaping a violent environment already have enough difficulty putting their lives back together without adding insult to injury when they attempt to purchase insurance").

52. See Chutchian, *supra* note 1, at 8 (explaining that The Women's Law Project of Philadelphia has documented cases of insurance discrimination against victims of domestic violence); see also Terry Fromson, *Abuse Victims Do Need Confidentiality Protection*, *LIFE & HEALTH/FIN. SERV. EDITION*, Feb. 24, 1997 at 25 (stating that the two organizations have been working together since 1994 to address the issue of insurance discrimination and to push for legislation to curb these discriminatory practices).

53. See Fromson, *supra* note 52, at 25.

54. See *id.*

55. See Chutchian, *supra* note 1, at 8 (quoting the Women's Law Project, "Furthermore, doctors, health care workers, and other service providers who have started identifying and documenting abuse may stop if continuing to do so will put their patients at risk of losing their insurance").

most insurance companies require applicants to sign a waiver to allow them to obtain their medical records.⁵⁶ The Women's Law Project collaborated with the National Association of Insurance Commissioners to design a model law for legislative bodies throughout the country.⁵⁷

B. Domestic Violence Model Act

The National Association of Insurance Commissioners (NAIC) is an association of all state insurance regulators whose goal is to serve the public by assisting state insurance officials to achieve the passage of laws which treat insurance consumers fairly and efficiently.⁵⁸ NAIC recently passed "The Unfair Discrimination Against Subjects of Abuse Model Act."⁵⁹ The Act provides privacy for victims of domestic abuse by banning disclosure of abuse.⁶⁰ In addition, the Act establishes a number of protocols designed to protect the safety of the victim when they are dealing with insurance companies.⁶¹ Although insurance companies are not required to follow the Act, the hope is that once some of the states endorse the Act the insurance companies will follow suit.⁶²

C. Insurance Companies' Justification for Denying Coverage

The extent to which insurance companies deny coverage based on domestic abuse is unknown.⁶³ Many insurance companies have an interest in denying coverage to battered women and opposing legislation intended to end discrimin-

56. *Id.*

57. See L. H. Otis, *Abuse Victim Protection Model Eyed*, NAT'L UNDERWRITER, Jan. 6, 1997, at 4 (reporting that Terry Fromson, an attorney with the Women's Law Project in Philadelphia, describes the purpose of the Unfair Discrimination Act, "What it ultimately does is prohibit abuse status as an underwriting criteria, whether the insurer knows it or suspects it, and I think that's the appropriate objective of this model").

58. See Morrison, *supra* note 8, at 281.

59. See Diane West, *Domestic Violence Model Act Bars Health Insurance Bias*, LIFE & HEALTH/FIN. SERV. EDITION, June 24, 1996, at 3 (defining "discriminatory insurance practices" as "denying, refusing to issue, renew, or reissue, canceling or otherwise terminating a health benefit plan, or restricting or excluding health benefit plan coverage or adding a premium differential to any basis of the applicant's or insured's abuse status").

60. *Id.*

61. See Morrison, *supra* note 8, at 283 (stating that an insurer is required to file how the company will conduct an insurance action, that may impact the safety of victim of abuse with the insurance commissioner).

62. See *id.* (noting that history shows that once a few states adopt a model law of the NAIC, most insurance companies will comply).

63. See Morrison, *supra* note 6, at 283 (explaining that domestic violence remains largely unreported, and secondly, that insurers are not required to report the criteria they use in their underwriting process); see also Dana Coleman, *Domestic Violence Victims' Insurance Rights Backed*, N.J. LAW., Apr. 22, 1996, at 10 (explaining that one reason we do not know the extent to which insurance companies discriminate based on domestic violence is because many women are unaware of why their coverage was denied or dropped, and they may also be afraid to come forward for fear of losing their insurance coverage).

atory practices.⁶⁴ Insurance companies argue that victims of abuse are likely to stay with their abusers and this makes them high-risk candidates.⁶⁵ Moreover, insurance companies believe that insurance discrimination is justified because many abused women choose to stay in the abusive environment.⁶⁶ Another reason insurance companies believe that they are justified in using domestic violence as an underwriting criteria is on the basis of economic impact.⁶⁷ Despite these justifications, companies such as Aetna and Blue Cross/Blue Shield do not use domestic violence as an underwriting criteria, and they are still profitable and able to offer their customers competitive rates.⁶⁸ The increase in legislation prohibiting domestic violence is resulting in more and more insurance companies adopting policies more favorable to women.

IV. CONCLUSION

Domestic violence is not a lifestyle choice,⁶⁹ it is a crime with serious implications in our society.⁷⁰ Advocates of women's rights assert that insurance companies must stop using domestic violence as an underwriting criteria, because it discourages women from reporting incidents of abuse and from seeking medical treatment.⁷¹ In order to stop domestic violence from reaching astronomical proportions, we need to educate society and provide services and support for battered women. Enacting legislation that protects and improves the lives of the victims of domestic violence, and encourages women to report the incidents of abuse, is one

64. See Morrison, *supra* note 8, at 266 (explaining that insurers have opposed this legislation because they believe it is contrary to the values of a free market).

65. See *id.* (explaining that some insurance companies analogize battered women to skydivers and race car drivers in terms of their risky lifestyles).

66. See *id.* at 271 (quoting David McMahon, Vice President of First Colony Life Insurance Co. stating, "A battered woman has a choice to move on someplace else. We're a business, not a social welfare organization.").

67. See *id.* at 273 (stating that insurance companies are concerned that if they insure victims of domestic abuse it will force them to raise their insurance rates for all consumers).

68. See *id.*; see also Erwin, *supra* note 4, at A2 (explaining that State Farm acknowledged in 1994 that they considered domestic abuse in their underwriting criteria, and since then they have modified their policy and no longer discriminate against women who have a history of battering).

69. See *Prepared Testimony from Nancy Durbrow, Health Projects Coordinator, Pennsylvania Coalition Against Domestic Violence, Before the Senate Labor & Human Resources Committee in Support of Senate Bill 524*, FED. NEWS SERV. (July 28, 1995) [hereinafter *Durbrow*] (explaining that women do not choose to be battered, and that leaving a abusive situation is difficult); see also Fountain, *supra* note 3, at 1 (quoting Terry Fromson, an attorney with the Women's Law Project of Philadelphia, who stated, "To me this is not an insurance risk. This is a crime. It's not a voluntary activity"); see also Howard A. Kline, *Insurers Shouldn't Hurt Victims Again*, THE PLAIN DEALER, (Cleveland) May 23, 1997, at B10 (asserting that women do not ask to be battered or wish to stay in an abusive relationship, but they often stay to ensure that their family has food and shelter).

70. See *Durbrow, supra* note 69 (stating that in the past 20 years efforts have been made to end domestic violence in our society).

71. See *Prepared Statement by Timothy T. Flaherty, MD Division of Legislative Counsel American Medical Association to the Committee on Labor and Human Resources*, FED. NEWS SERV. (July 28, 1995) (explaining that major life insurance companies deny battered women insurance because they are seen as a high risk).

way in which we can help these women. Insurance discrimination stands as a barrier to achieving these goals. Hopefully, the passage of Chapter 176 and Chapter 845, in addition to similar legislation, will prompt Congress to enact federal legislation that will put an end to the discriminatory practices used by insurance companies against victims of domestic violence.