

## Virginia Bench Guide for Recognizing Dangerousness in Potentially Lethal Cases

Research has proven that there are several factors associated with an increased risk of homicides in intimate partner domestic violence relationships. This bench guide is not intended to predict what will happen in any given case; it is an informational tool for your consideration as you review a case and become aware of the extent to which the evidence reveals how many lethality factors (danger of homicide) are present.<sup>1</sup> **Please refer to the back of this sheet for information on how to use this bench guide.**

### LETHALITY FACTORS:

<b>PERPETRATOR-RELATED:</b>
Alleged perpetrator ever <b>used</b> or <b>threatened</b> the alleged victim with a <b>lethal weapon</b>
Alleged perpetrator has <b>attempted to strangle</b> or <b>choke</b> the alleged victim
Alleged perpetrator is <b>violently</b> and <b>constantly jealous</b> of the alleged victim (“If I can’t have you, no one can.”)
Alleged perpetrator has <b>forced</b> the alleged <b>victim</b> to have <b>sex</b> when the victim did not want to
Alleged perpetrator owns or has access to <b>firearm(s)</b>
There has been an increase in <b>severity</b> or <b>frequency</b> of physical violence over the last year
Alleged perpetrator tries to <b>control</b> most or all of alleged <b>victim’s daily activities</b>
Alleged perpetrator <b>uses illegal drugs</b> such as “uppers,” “meth,” speed, angel dust, cocaine, “crack,” etc.
Alleged perpetrator is an <b>alcoholic</b> or a problem drinker
Alleged perpetrator ever <b>threatened</b> or <b>tried to commit suicide</b>
Alleged perpetrator ever <b>threatened</b> or <b>tried to kill</b> the alleged victim
Alleged perpetrator <b>follows</b> or <b>spies</b> on the alleged victim
Alleged perpetrator has <b>threatened</b> to <b>harm</b> the alleged <b>victim’s children</b>
Alleged perpetrator is <b>unemployed</b>
Alleged perpetrator <b>avoided</b> being <b>arrested</b> for <b>domestic violence</b>
There are <b>pending</b> or <b>prior protective orders</b> , criminal/civil cases involving this alleged perpetrator
<b>VICTIM-RELATED:</b>
Alleged <b>victim believes</b> that the alleged perpetrator will <b>re-assault</b> or is <b>capable of killing</b> her/him
Alleged <b>victim</b> was <b>assaulted and/or battered</b> by the alleged perpetrator <b>while pregnant</b>
Alleged <b>victim</b> has a <b>child</b> that is <b>not</b> the alleged <b>perpetrator’s child</b>
Alleged <b>victim left</b> the alleged perpetrator after living together in the past year
Alleged <b>victim has threatened</b> or <b>tried to commit suicide</b>

<sup>1</sup> **Please note:** This list of lethality factors is not exhaustive. The presence of these factors can indicate **elevated risk** of serious injury or lethality. The **absence** of these factors is not, however, evidence of the absence of risk of lethality or evidence that any particular judicial action (i.e. granting a Protective Order) should not be taken. This bench guide was primarily based on the lethality factors identified in the validated risk assessment tool developed by Dr. Jacqueline C. Campbell, PhD, and modeled after similar bench guides developed by the Massachusetts, Minnesota, and California courts.

## **How to Use the “Recognizing Dangerousness in Potentially Lethal Cases” Bench Guide**

This bench guide can be used by Virginia judges at all stages of judicial proceedings involving allegations of domestic/dating violence and protective orders in civil and criminal domestic violence cases. **It can be used at bond hearings, protective order hearings, or anytime the judge feels it is appropriate.** Suggested tips include:

- **Try to obtain information regarding these factors through all appropriate and available sources**
  - Potential sources include police, victim witness staff, prosecutors, defense attorneys, bail evaluators, pre-sentence investigators, probation, custody evaluators, parties, and attorneys
  
- **Be cautious about eliciting safety or risk information from victims in open court**
  - Safety concerns can affect the victim’s ability to provide accurate information in open court
  - Soliciting information from victims in a private setting (by someone other than the judge) improves the accuracy of information and also serves as an opportunity to provide information/resources to the victim
  
- **Note that this list of risk factors is not exclusive**
  - The lethality factors are the ones most commonly present when the risk of serious harm or death exists
  - Additional factors exist which assist in prediction of re-assault
  - Victims may face and fear other risks such as homelessness, poverty, criminal charges, loss of children or family supports
  
- **Remember that the level and type of risk can change over time**
  - The most dangerous time is the days to months after the alleged perpetrator discovers that the victim:
    - might attempt to separate from the alleged perpetrator or to terminate the relationship
    - has disclosed or is attempting to disclose the abuse to others, especially the legal system

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