



NEW YORK STATE SENATOR

Jack M. Martins

State's Domestic Violence Laws Strengthened

JACK M. MARTINS October 27, 2012

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Legislation supported by Senator Jack M. Martins to strengthen domestic violence laws and enhance protections so victims can sever ties with their abusers has been signed into law by Governor Andrew M. Cuomo.

The legislation holds serial offenders more accountable for their behavior with the creation of a new crime and new considerations when determining bail, and creates a state-level Fatality Review Team to find new ways to prevent intimate partner homicides.

“By strengthening the domestic violence laws, New York is leading the way in protecting victims and prosecuting offenders while demonstrating to the nation that we will not tolerate violence against our families,” said Governor Cuomo. “This new law will make it a felony crime for criminals who repeatedly harm their families and ensure that they can be stopped.”

“This new law reinforces our commitment to fight domestic violence. In our state, domestic violence simply will not be tolerated,” Senator Martins said. “This is a problem that faces our state and nation and, by passing this legislation in a bipartisan way, sends a message that we are united in the fight against domestic violence.”

Domestic violence is a problem of enormous prevalence and impact in both New York State and across the nation. It has been identified by the U.S. Surgeon General as the number one health problem affecting American women, and it floods the justice system of New York State as well as the courts of every other state in the nation

Research shows that domestic violence offenders most often recidivate against the same victims (70 – 80 percent), and that those in an intimate relationship are more likely to re-offend than those who commit crimes in “other” family relationships. In addition, offenders released without bail had a higher pre-trial recidivism rate than those released on bail, as did those charged with violating an order of protection.

New Felony Crime and Expanded Definition of Aggravated Harassment

The law creates the Class E felony of Aggravated Family Offense, which enables law enforcement to prosecute as felons defendants who commit certain misdemeanor-level offenses and have a previous conviction for a specified misdemeanor or felony against a family or household member within the past five years. It also expands the definition of the Class A misdemeanor of Aggravated Harassment in the Second Degree to include when a defendant, with intent to harass, annoy, threaten or alarm, causes physical injury to an individual, or to a family or household member of that individual.

Although New York State already has a number of strong domestic violence protections, many domestic violence abusers repeatedly commit low-level offenses, which carry minor penalties, enabling them to continue subjecting their victims to fear and harm.

The aggravated family offense takes effect in three months and the aggravated harassment misdemeanor and the bail provision take effect in two months. The maximum sentence for a class A misdemeanor is one year in local jail; the maximum sentence for a class E felony is up to four years in state prison.

Allows Judges to Consider Additional Risk Factors in Determining Bail to Better Protect Victims from Further Harm

Under the new law, courts will be required for the first time to consider certain risk factors when determining recognizance or bail for a defendant who is charged with an offense against a family or household member.

Currently, courts are not required to consider any special factors when determining recognizance or bail in a domestic violence case, allowing offenders in some cases to go free on low bail and thereby be allowed to stalk, harm and sometimes kill their specifically targeted victims. Under the legislation that was signed today, judges will be required to consider well-established risk factors, such as an offender's prior violation of an order of protection and the accused's access to guns.

Establishes Statewide Fatality Review Team to Find New Ways to Reduce Intimate Partner Homicides

Under the new law, the New York State Office for the Prevention of Domestic Violence will establish a statewide domestic violence fatality review team. The review team will bring together domestic violence-related professionals to review domestic violence homicides, in an effort to understand more fully the factors involved and determine how the system can be improved in order to help prevent future deaths. The review team will report periodically to the Governor and the Legislature to assist the State and local communities in improving domestic violence prevention measures. The review team will be established in 180 days.

The package of laws signed today also includes provisions that address non-criminal needs of domestic violence victims, providing them options to sever their relationships with abusers in a variety of ways: enhancing last year's address confidentiality bill to provide appropriate protections for family members; ensuring that insurance companies, when notified of the domestic violence, do not jeopardize a victim's safety by disclosing

confidential information to the abuser; and preventing abusers who were subject to an order of protection or charged with someone's death from making funeral or burial arrangement decisions

In addition to targeting domestic violence through stronger legislation, New York State will institute three new programs designed to enhance victim and officer safety, and hold offenders accountable for their crimes: a specialized domestic violence court at the Rikers Island Judicial Center for parolees with a history of domestic violence; a high-risk response team, and free, online training for police officers.

High-Risk Team

The multi-disciplinary High Risk Team – composed of a domestic violence advocacy group, the police department, and the department of probation - will use a standard list of risk assessment questions to identify the highest risk cases. The goal of the initiative is to identify high-risk cases at the earliest point possible; develop a system for open communication among team members and make sure it works; contain and monitor the offender; and ensure victim services are easily accessible and comprehensive.

Online Training for Law Enforcement

For the first time, police departments in the state will have access to web-based training on essential topics in domestic violence response, including investigating current and past incidents, collecting evidence, conducting interviews, applying the state's mandatory arrest and primary physical aggressor provisions, and identifying possible criminal charges; officers are then guided through videos and asked to apply their knowledge to the cases depicted.