

Close the Gaps



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AWARENESS

DAY

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The New York State Coalition Against Domestic Violence (NYSCADV)

SUPPORTS

Providing that persons arrested for domestic violence shall forfeit bail when violating an order of protection

A.2510 Clark/S.4891 Robach

NYSCADV asks the legislature to emphasize the significance of orders of protection by requiring that persons who violate orders of protection while on bail forfeit that bail.

Background

Numerous efforts have been made through legislation to appropriately and sufficiently sanction domestic violence offenders. However, there is no unique sanction for persons who commit criminal contempt while released on bail.

Currently, the determination for issuing bail for a defendant is the risk of failure to appear in court. We have many concerns about this standard and wish to see it changed to include considering public safety. NYSCADV believes that the court's concern that a defendant will disobey the court order to return to court should be applied further to include concern about the defendant disobeying other court orders, including orders of protection.

The time that an offender is on bail is a dangerous time for victims of domestic violence.

It is important to understand the time frame when evaluating bail. Bail is typically determined at arraignment after an offender is arrested for committing a crime. It is very likely that the crime consists of physical violence or threats to commit physical violence. Therefore, a domestic violence offender released on bail is in the community soon after committing a violent or threatening act towards their partner. The proximity to an incidence of violence and separation from an abuser (which the imposition of an order of protection creates) are two risk factors identified for future violence or homicide committed by a domestic violence offender against their partner.

- 75% of intimate partner homicide victims and 85% of women who had experienced severe but non-fatal violence had left or tried to leave in the past year¹.
- No matter how severe the most recent incident of abuse, if it happened recently, the woman faces a higher risk of being killed¹.
- Leaving can end the violence. When it does not, however, the continuing violence may become more severe than for women who never tried to leave¹.

Accountability to the courts, victims and the community is a critical component of a just justice system².

A report published by the New York City Criminal Justice Agency in 2008 states that pre-trial misconduct by domestic violence defendants is a significant problem:

- In 17% of domestic violence cases the defendant committed pretrial misconduct, which includes pre-trial arrest for domestic violence incidents and failure to appear.³

To improve the safety of victims of domestic violence and hold offenders accountable, violating an order of protection must be held to a comparable standard of violating a court order to return to court.

All court orders should be held to a high standard and this bill puts criminal contempt on par with a defendant's willful disobedience of a court order to return to court.

¹ Block, Carolyn Rebecca. 2003. How can practitioners help an abused woman lower her risk of death? *National Institute of Justice Journal: Intimate partner homicide*. Issue 250. U.S. Department of Justice, Office of Justice Programs. Washington, DC.

² Hart, Barbara, J. 1998. *The underpinnings of a just justice system*. Pennsylvania Coalition Against Domestic Violence. Retrieved on April 16m 2013 from <http://www.mincava.umn.edu/documents/safety/safety.html#idp7066704>.

³ Peterson, Richard R. 2008. Pretrial misconduct among domestic violence defendants. *Research Brief Series*, no. 17. New York: New York City Criminal Justice Agency, Inc.