

Close the Gaps



NYSCADV
NEW YORK STATE COALITION
AGAINST DOMESTIC VIOLENCE

DISCRIMINATION

HOUSING

EMPLOYMENT

ECONOMIC

GEOGRAPHY

JUSTICE

INEQUALITY

LEGISLATIVE
AWARENESS

DAY

APRIL 29, 2014

The New York State Coalition Against Domestic Violence (NYSCADV)

SUPPORTS

Protecting the Right of Victims to Call for Police and Emergency Assistance

A.9056 Lavine/S.6924 Robach

NYSCADV asks the legislature to prevent local municipalities from enacting “nuisance” ordinances that force victims to choose between safety and housing.

Background

Even in the best of times, safe and affordable housing is difficult to obtain and maintain. The expense of housing, the lack of affordable housing, and the demand that the housing crisis has placed on housing inventory over the last several years are just some of the challenges faced by people seeking new housing or trying to maintain the housing in which they currently live. Tie together the intersection of domestic violence and the challenges associated with housing, and we are left with a convergence of issues that force victims of domestic violence to weigh the risks of remaining with their abusers versus the risks that come from unstable housing and homelessness. Some of the ways that domestic violence impacts housing stability are:

- The abuser’s acts of violence and stalking against the victim create an atmosphere in which the victim is viewed as a “bad” tenant by current and future landlords.
- The abuser’s current and potential future stalking deters the victim from seeking new housing.
- The economic abuse perpetrated against a victim of domestic violence can cause rental payments to be late, prevent the victim from building credit histories, or ruins credit histories, making it difficult to meet some landlord’s rental criteria.

The state legislature has passed many laws over the last 30 years to create mechanisms to support the safety of victims of domestic violence such as emergency shelter or other services. But these services cannot work to their fullest extent when local governments enact additional barriers that encourage housing discrimination against victims, penalize them for seeking life-saving emergency assistance, and prevent victims from moving forward. Nevertheless, numerous municipalities throughout New York have passed local laws, so-called “nuisance ordinances,” that have these precise results.

Landlords Must Not be Forced to Discriminate Against Victims of Domestic Violence

Discrimination against victims of domestic violence by current and potential landlords is pervasive enough (which can be remedied by the enactment of A.8070 into law) but a recent trend is exacerbating this issue and must be resolved quickly by the passage of A.9056/S.6924. Municipalities throughout New York State and the Nation are increasingly enacting ordinances that designate a property as a nuisance when it is the site of a certain number of police responses or specified crimes and conduct in a given time period. These ordinances then impose penalties such as fines, property closure, and revocation of rental permits, which require or pressure landlords to evict the tenants at issue. Generally, these ordinances are applied against a property *regardless* of whether the residential occupant was a victim of the cited crime or accessed police assistance out of a reasonable, legitimate fear or concern. To preemptively avoid these penalties, landlords have threatened or actually instituted eviction proceedings against victims of domestic violence and other crimes even before receiving any citation under an ordinance.

These Discriminatory Practices Must Stop

Nuisance ordinances are contradictory to one of the most predominate methods of safety for victims of domestic violence - police intervention. These ordinances endanger victims by sending a clear message - call for help and you will lose your housing. The legislature needs to act now to prevent local municipalities from thwarting the statewide efforts to ensure that victims have access to services that are designed to increase their safety. Nuisance ordinances force victims to choose between safety and housing and embolden abusers who discover that they can use these ordinances as an additional form of power and control.

It is Necessary to Protect a Person's Right to Call for Police and Emergency Assistance

Victims of domestic violence or any other person threatened with violence or in jeopardy of harm *should not be deterred from seeking police or emergency assistance when needed* because of fear that they will be evicted or that their landlord and community will take other actions to remove them from the property. This legislation prevents the physical, emotional, and economic harm that nuisance ordinances can cause victims of domestic violence and other crimes by amending the civil rights law to:

- clarify that victims of domestic violence, as defined by Social Services Law §459-a, or any person who believes that he or she is in need of police or emergency assistance, have the right to call for such assistance *without direct or indirect penalty or reprisal* for doing so and prevent any resident or occupant from waiving their right to seek police or emergency assistance.
- provide that municipalities may not impose penalties on a property owner or tenant on the basis of a residential occupant's exercise of his or her right to seek or utilize police or emergency aid, and prohibit landlords from taking negative housing actions against individuals for this protected conduct
- ensure that when a municipality seeks to enforce a local nuisance ordinance, it must give notice and opportunity to contest any action not only to the landlord but to the tenant as well.

It is important to note that this bill will not stop municipalities or landlords from addressing other drug, weapon, and property crimes. It instead promotes public safety by ensuring that such efforts do not inadvertently penalize individuals for violence or other crimes perpetrated against them. A municipality may otherwise enforce a local law and a landlord may otherwise take negative housing actions when these enforcement actions are independent from the protected activity of seeking emergency assistance or the individual's status as a target or victim of violence. This bill also authorizes a landlord or court to allow a victim to remain in occupancy but remove the perpetrator of violence through lease bifurcation. This "lease splitting" or bifurcation provision protects victims, landlords, and communities by allowing these ordinances to get to the heart of the issue - holding the offender of violence and community disruption accountable for their actions while at the same time providing protection to the person(s) being victimized.

**Passing this legislation is necessary to prevent
homelessness, housing instability, and
most importantly, future physical, emotional, and economic harm to
victims of domestic violence and other crimes.**