

# 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

*Allowing judges to consider public safety when making a bail determination.*

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*NYSCADV asks the legislature to stand with Chief Judge Lippman and support the Judiciary's proposal to reform New York State's approach to bail determinations.*

#### Background

The issuance of bail is of particular concern to victims of domestic violence due to its fundamental differences from stranger perpetrated crime. Domestic violence is never random, the victim and perpetrator typically have some interdependence, and it is likely that there are multiple events that occur over time. Yet, because New York State's standard for judges to make bail determinations is solely based on the defendant's risk of failing to return to court, judges cannot consider the unique nature of domestic violence when making bail determinations. Because of this, victims of domestic violence in New York State are not afforded more comprehensive protection from the court after their offender is arrested for crimes committed against them.

#### **Pretrial misconduct by domestic violence offenders is a significant problem. Bail can offer more accountability.**

Considering the New York City Criminal Justice Agency found that pretrial misconduct by domestic violence defendants is a significant problem, the safety of victims of domestic violence is not immediately remedied upon the arrest of their abusers. In addition, we know that the period of time after an abuser is arrested for domestic violence can be a dangerous time for victims. The proximity to an incidence of violence and the separation from an abuser (which the imposition of an order of protection creates) are two risk factors 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 year<sup>1</sup>.
- No matter how severe the incident of abuse, if it happened recently, the woman faces a higher risk of being killed<sup>1</sup>.
- Leaving can end the violence. When it does not, however, the continuing violence may become more severe than for women who never tried to leave<sup>1</sup>.

#### **Judges must be able to consider public safety when making bail recommendations.**

Because of the potential for pretrial misconduct, judges should be able to take public safety needs into consideration to support and protect victims of domestic violence. Yet, under current New York State law, judges cannot take public safety - such as the safety of the crime victim - into consideration when determining if a defendant should be released on their own recognizance or if the court should issue bail. This is a gap in the system that must be closed. Chief Judge Lippman's proposal to reform bail would authorize judges to consider public safety as well as the risk of failure to appear for court when making bail decisions.

***The time has come to join 46 other states, the District of Columbia and the Federal government by changing New York's bail laws to require judges to take into account public safety considerations.***

<sup>1</sup> 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.