

# NYSCADV

## NEW YORK STATE COALITION AGAINST DOMESTIC VIOLENCE

### MEMORANDUM OF OPPOSITION

A.7312 (Titone)/S.64 (Young)

#### VIOLENT OFFENDER REGISTRY BILL: VERSION 3 OF 3

##### BACKGROUND

NYSCADV is opposed to this and other similar legislation because domestic violence offender registries, in any format, have dangerous unintended consequences that thwart their ability to achieve the desired and intended outcome of increasing victim safety and offender accountability. Our concerns about domestic violence offender registries mirror those of our partners across the country, including state domestic violence coalitions and the National Network to End Domestic Violence<sup>1</sup>.

##### DOMESTIC VIOLENCE OFFENDER REGISTRIES DO NOT CREATE A DETERRENT EFFECT

Similar versions of this legislation have been around since 2008. They have different approaches to the initiating factor that determines who must register. The language in this specific version requires registration as a result of a conviction of a “domestic abuse offense” when the victim is a family or household member. Few abusive individuals would end up on the registry because relying on convictions for these offenses would mischaracterize the number of actual domestic violence offenders. Only a small percentage of domestic violence offenders ever have contact with the criminal justice system. Even fewer face arrest, and of those that are arrested, far fewer are actually convicted. For example, many felony level domestic violence related crimes are plead down to misdemeanors, receive adjournments in contemplation of dismissal (ACOD), or are dismissed.<sup>2</sup>

As an example, in New York City, **of the 75 family related homicides in 2010, 77% of those cases had no known prior police contact and 96% of these cases had no current order of protection**<sup>3</sup>. This shows that a significant portion of those who commit acts of domestic violence will not be identified through a domestic violence offender registry. The registry purports to be a tool that people can use to find out if their partner is unsafe, but in reality, it creates a false sense of security, as it presents the assumption that if a current or prospective partner is not on it, they do not have a history of abuse and are not capable of being abusive.

##### REGISTRIES HAVE A HARMFUL DISPARATE IMPACT ON PEOPLE OF COLOR

We have additional concerns about the over representation of people of color on such a registry, due to the institutionalized racial bias within criminal and court systems. For instance, a 2010 report from Prison Policy Initiative found that in 2010 Blacks and Hispanics made up 34% of the total state population, but represented 74% of the total prison/jail population, while whites made up 58% of the total state population and only represented 26% of the prison/jail population. A 2010 report from the U.S. Sentencing Commission found that in the federal system Black people receive sentences that are 10% longer than White people convicted of the same crimes. And a 2009 report from the Sentencing Project found that the longer a sentence is, the more likely it is that a person of color will be the one getting it: two-thirds of the people in the United States with life sentences were non-white, and in New York, that number rose to 83%. The inherent bias within the criminal and court systems will cause a parallel bias within the registry, further harming communities of color.

##### REGISTRIES ARE RIDDLED WITH HARMFUL CONSEQUENCES FOR VICTIMS & THEIR FAMILIES

Leaving an abuser can be equally if not more dangerous than staying, and should be done thoughtfully and with a well-constructed safety plan. Posting a perpetrator's name can lead to escalated danger of retaliatory violence by an offender who blames the victim for exposing the abuse to their social circles and to the community in which they reside. An offender registry will also likely create a chilling effect on the reporting of crimes to authorities, and can lead to escalated danger of retaliatory violence. A 2015 study by the National Domestic Violence Hotline revealed that more than half of the survivors that reached out

<sup>1</sup> <http://techsafety.org/blog/2016/5/4/thinking-critically-about-domestic-violence-offender-registries>

<sup>2</sup> Klein, A. (2004). *The criminal justice response to domestic violence*. Belmont, CA: Wadsworth

<sup>3</sup> [http://www.nyc.gov/html/ocdv/downloads/pdf/2010\\_annual\\_DVFactSheet.pdf](http://www.nyc.gov/html/ocdv/downloads/pdf/2010_annual_DVFactSheet.pdf)

to the police said they would not call the police again because doing so only made things worse. Offenders already blame victims and retaliate when the police are called. This danger will be intensified when they blame the victim for also exposing the abuse to the community by having their name put on a registry, and the victim's likelihood to call the police for help will be even further reduced. While this bill allows courts to consider a victim's wishes regarding registration of the offender, it is unsafe to put a victim into the precarious position of having to make a decision like this. Abusers often threaten and intimidate victims into dropping charges and not testifying against them.

Victims of domestic violence that reach out for help from law enforcement are arrested at an alarming rate. According to the National Domestic Violence Hotline study, 1 in 4 survivors reported being arrested or threatened with arrest after reporting an incident to the police. Survivors may be arrested for protecting themselves against the violence they suffered, or because the officers at the scene arrested both parties. This will likely lead to victims' names being included on the registry. While this version of the legislation does allow court discretion to determine if an offender was defending themselves and is a victim, we remain concerned that this does not sufficiently address the murky issues regarding victim blaming inherent within many criminal and court systems.

### **VICTIM PRIVACY CONCERNS**

Notifying the public about the identity of domestic violence offenders will mean that the domestic violence victims—by nature of the relationship to the offender—cannot remain anonymous (e.g. if the community sees John Doe's name on the registry, they will infer that John Doe's spouse, girlfriend, ex-partner, etc. were likely victimized, infringing upon their privacy and right to confidentiality as victims). This can further isolate victims of domestic violence. For example, if a friend or family member of a victim finds that the victim's abuser is on the registry, they may pressure the victim to leave or blame the victim for entering into or staying in the relationship. Even worse, it is possible that placement on a registry may lead to victims expulsion from housing or employment.

In this specific version of a violent offender registry bill, the person who calls the registry hotline to inquire about someone's status is required to identify themselves and provide a current address which will be maintained in written record. This legislation also creates an internet website allowing this information to public. This creates additional concerns about privacy, confidentiality and potential threats to a victim's safety.

### **THE EXPENSE OF DOMESTIC VIOLENCE OFFENDER REGISTRIES DIVERTS LIMITED, CRITICAL FUNDING**

While this particular proposal requires the registered offender to pay small fees when registering and updating their information, there will be a huge cost to the state to create and maintain such a database. The 2012 NYC Bar Association memorandum of opposition to violent offender registries noted that the Senate Finance Committee estimated the registry would cost approximately \$2 million to create, and between \$4.5 and \$5 million to annually maintain, and that these figures did not include the cost of hardware or the costs of additional police/ parole officers needed to implement and monitor the registration of offenders. These expenses incurred by the state would divert critical and already scarce funding from organizations that provide emergency and long term assistance for victims, and that provide primary prevention education within their communities. Fees do not resolve this issue, as so many offenders already do not meet their financial obligations to pay restitution, let alone child support. State resources should be used to support and expand core services for victims, and for primary prevention efforts that confront the attitudes and social norms that allow domestic violence to thrive, rather than to fund initiatives riddled with unintended consequences.

### **INVEST IN PRIMARY PREVENTION**

Providing supportive services to victims of domestic violence and holding offenders accountable are essential components of a community's response to domestic violence. But the reliance on criminal justice strategies and support services for survivors has not reduced the rates of domestic violence in the United States<sup>4</sup>. In order to stem the tide of violence, we must not invest in offender registries, but in efforts that promote broad social change. Evidence based primary prevention strategies stop violence from occurring in the first place. They promote protective factors in youth, challenging the social norms that have allowed domestic and sexual violence to thrive, by using a variety of teaching methods that are both developmentally appropriate and are accessible to multiple learning styles. They incorporate diverse community norms, practices and beliefs, working to stop the violence before it starts. It is in these efforts that New York should invest.

**NYSCADV opposes this legislation establishing violent offender registries.**

<sup>4</sup> L. Dugan, D. S. Nagin and R. Rosenfeld, Exposure Reduction or Retaliation? The Effects of Domestic Violence Resources on Intimate-Partner Homicide , Law & Society Review, vol. 37:1(2003).