

MEMORANDUM OF SUPPORT

REQUIRE COURTS TO ORDER SEARCH AND SEIZURE OF FIREARMS

A.8102A Clark/S.6363A Mayer

The New York State Coalition Against Domestic Violence (NYSCADV) urges the New York State Legislature to pass this legislation which would require criminal and family courts to order seizure of firearms, rifles, and shotguns when an individual willfully refuses to surrender such firearms after an order of protection has been issued.

The period immediately following the involvement of law enforcement or the courts is one of the most dangerous times for victims of domestic violence. During this heightened period of danger, the presence of firearms increases the risk of serious harm and/or fear of retaliation for victims. The mere presence of a gun in a home where there is domestic violence increases the risk of homicide by 500%.¹ Addressing the inherent risk presented by the physical presence of firearms after an order of protection has been granted gives victims one less immediate concern on their journey to safety and freedom.

Currently, upon the issuance of a criminal or civil order of protection, the court must order the surrender of all firearms owned or possessed by a defendant or respondent if it has been determined by the court that there are certain risk factors present that suggest there would be safety concerns if the individual retained possession of the weapons. However, in some cases, parties willfully refuse to surrender their firearms. This puts victims in a precarious situation where they are at risk of serious harm or threat of serious harm. In such cases, this bill would require the court to order the immediate search and seizure of such firearms, ensuring that firearms will be seized in cases where a judge has determined that an individual's possession of firearms poses a danger to a victim's safety and well-being.

NYSCADV urges the Legislature to pass this bill which would require the court to order the search and seizure of firearms, providing common sense protection for victims of domestic violence.

ABOUT NYSCADV:

Established in 1978, NYSCADV is designated by the U.S. Department of Health and Human Services as the information clearinghouse, primary point of contact, and resource center on domestic violence for the State of New York. NYSCADV is responsible for supporting the development of policies, protocol, and procedures to enhance domestic violence intervention and prevention and also provides education and technical assistance to the network of primary-purpose domestic violence service providers statewide.

For more information, contact: Joan Gerhardt, Director of Public Policy and Advocacy, 518.482.5465

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1. Campbell, et.al. 2003. "Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study." American Journal of Public Health July: 93(7).