

MEMORANDUM OF SUPPORT

PROTECT VICTIMS OF SEXUAL ASSAULT BY LIMITING USE OF DNA COLLECTED DURING MEDICAL EXAMINATIONS

S.8408 Hoylman

The New York State Coalition Against Domestic Violence (NYSCADV) urges the New York State Legislature to pass this legislation, which would limit the use of victim DNA collected in sexual offense kits.

Every 68 seconds, someone is sexually assaulted in the United States.¹ Victims of sexual assault who seek medical treatment have the option to undergo a forensic medical examination to collect evidence left behind by the perpetrator(s) in the hope of building a criminal case, should the victim choose to turn to the criminal justice system for response.

When survivors provide this evidence to law enforcement, they are consenting to law enforcement using it to investigate the crimes committed against them in that particular incident. On the contrary, according to a recent Los Angeles Times article, San Francisco police used a database with DNA collected from victims of rape and sexual assault to connect some of them to unrelated cases.²

Using this evidence for any purpose other than its intended use, especially to prosecute a victim for an unrelated crime, violates victims' rights while breaking any trust they had of the criminal justice system. Knowing this evidence could be used to incriminate them for an unrelated crime would undoubtedly impact the number of survivors who choose to have sexual assault exams performed and would likely impede a survivor's options when seeking justice.

Survivors deserve the assurance that evidence collected at one of the most vulnerable times in their life will only be used to investigate the crime committed against them, not to criminalize them in the future. This bill would amend New York State executive law to: (1) prohibit inclusion of DNA samples, records, products or evidence collected or resulting from a sexual offense evidence kit in the state DNA identification index, and (2) ensure any DNA record of a victim collected during such exams and stored in a DNA identification index be expunged within 90 days of passage of this bill.

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 Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, National Crime Victimization Survey, 2019 (2020).

² Gregory Yee, San Francisco police used rape victims' DNA to try to 'incriminate' them, D.A. says, February 14, 2022, Los Angeles Times, accessed at: <https://www.latimes.com/california/story/2022-02-14/san-francisco-police-misused-rape-victims-dna-chesa-boudin-says>