

MEMORANDUM OF SUPPORT

REQUIRE COURTS TO ASK PARTIES ABOUT THE PRESENCE OF FIREARMS

A.8105A Clark/S.6443A Mayer

The New York State Coalition Against Domestic Violence (NYSCADV) urges the New York State Legislature to pass this legislation requiring criminal courts to ask a defendant and victim about the existence and location of any firearms or weapons owned or possessed by the defendant. The inquiry would occur whenever a temporary order of protection is issued.

In 2021, there were 60 intimate partner homicides reported in New York. A firearm was used in 45% of these homicides that occurred outside of New York City and 24% of those that occurred within the City.¹ Given the inextricable link between domestic violence and lethal gun violence, it is logical for courts to inquire about the presence of firearms during proceedings where an order of protection has been requested. Although some judges already ask the parties about the whereabouts of firearms, not all do, leaving some victims at heightened risk of retaliation or threat of retaliation from an abusive partner. Asking about the potential presence of firearms and weapons is a simple step courts can take to enhance victim safety.

When asking this question, courts must take into consideration the dynamics of domestic violence. Victims seeking orders of protection have often been subjected to months or years of coercive, physical, emotional, and financial control accompanied by manipulative behavior. If firearms are present, there is a good chance the victim can assist law enforcement in locating them for surrender, but it is critical that the court centers the victim's safety in the process. For this reason, this legislation would require the court to make these inquiries to victims when they are not in the presence of the defendant.

NYSCADV urges the Legislature to pass this legislation which would amend the Criminal Procedure Law to:

- require judges to inquire about the presence and location of firearms, and
- separate the protected party from the respondent when questions about the presence of firearms and weapons are asked.

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

Revised: April 12, 2022

1. Division of Criminal Justice Services. (2021 December). *Domestic Homicide in New York State 2020*. <https://www.criminaljustice.ny.gov/crimnet/ojsa/FINAL2020-Domestic-Homicide-Report12-21.pdf>

