



Governor Andrew Cuomo has signed into law several pieces of legislation that impact survivors of domestic violence and human trafficking. Detailed information about these new laws is presented below:

NEW LAW: Prohibits possession of firearms for individuals convicted of misdemeanor offenses involving domestic violence (A10272/S8121)

New York State law already prohibited possession of firearms for individuals convicted of felony or serious offenses or for an offender who is the subject of a temporary or final order of protection. This new law amends the penal law, the criminal procedure law and the family court act to extend the firearms possession prohibition for individuals convicted of certain misdemeanors commonly associated with domestic violence, such as assault in the third degree, menacing in the second or third degree, criminal obstruction of breathing or blood circulation, unlawful imprisonment in the second degree, coercion in the third degree, criminal tampering in the third degree, criminal contempt in the second degree, harassment in the first degree, aggravated harassment in the second degree, criminal trespass in the second or third degree, arson in the fifth degree, or attempt to commit any of these offenses.

Further, in addition to the surrender of hand guns, the new law applies this surrender requirement to long guns such as rifles and shot guns.

At arraignment or within 45 days after arraignment, a prosecutor may file a notice with the court that the defendant and person alleged to be a victim of the crime are members of the same family or household. Upon conviction of the offense, the court will advise the defendant that he or she is entitled to a hearing solely on the allegation contained in the notice. If the allegation is sustained, the court will suspend the individual's right to possess any firearms and order the immediate surrender of all firearms. The determination will be communicated to local law enforcement and the State Police.

This new law became effective in June 2018.

NEW LAW: Permits reimbursement to non-physically injured victims for domestic violence shelter costs and costs of crime scene cleanups (A10275/S7993)

Prior to this new law, non-physically injured victims of certain menacing charges, criminal obstruction of breathing or blood circulation, certain harassment and aggravated harassment charges, certain criminal contempt and stalking charges or hate crimes were eligible for reimbursement of enumerated expenses by the Office of Victim Services.

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This new law expands reimbursement to domestic violence shelter costs and for crime scene cleanup expenses.

The new law is expected to have minimal fiscal impact. Total award payments made during State Fiscal Year '16-'17 for these two expenses (as well as securing a crime scene) for physical injury claims were no more than \$10,000. In the unlikely event that such award payments increased ten-fold due to this new law, the fiscal impact would be no more than \$100,000.

This new law becomes effective on February 18, 2019, and will apply to all claims filed on or after that date.

NEW LAW: Permits the Crime Victims Board to accept other official documents in lieu of police reports to document eligibility for victim compensation (A3936/S8751)

Studies show that many victims need time to deal with the effects of the crime before reporting the crime to police, or choose never to report the crime to the police out of fear or shame. Failure to file a police report should not be a bar to receive compensation for rape, sexual assault, child abuse and domestic violence.

This new law, therefore, amends the executive law to permit a family court, governmental agency responsible for child and/or adult protective services, or any medical facility providing a forensic physical exam for victims of rape and sexual assault to provide documentation of eligibility for compensation for rape, sexual assault, child abuse or domestic violence.

This new law will become effective on October 31, 2018.

NEW LAW: Authorizes the state Office of Temporary and Disability Assistance to contract with not-for-profits to create “short-term” and “long-term” safe house residential facilities for victims of human trafficking (A9566/S8305)

This new law amends the Social Services law to create “short-term” and “long-term” safe houses for victims of human trafficking. Short-term safe houses are residential facilities operated by not-for-profit agencies with experience in providing emergency shelter, services and care to victims of human trafficking, including food, shelter, clothing, medical care, counseling and crisis intervention. Long-term safe houses are also residential facilities operated by not-for-profit agencies and provide or assist victims with services through either direct provision of services or through written agreements with other community and public agencies to provide services such as housing, assessment, case management,

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medical, legal, mental health and substance use services, counseling, educational services such as life skills and job training, and placement and planning services to transition victims back into the community. The services provided by the safe houses will be culturally competent to the extent possible.

Placement in the safe houses will be available to victims at their initial point of contact with law enforcement, a local social services district, or social or legal services provider.

This new law recognizes that homeless shelters, domestic violence shelters and runaway and homeless youth shelters can help victims of human trafficking, but only if the victim meets each shelter system's particular eligibility requirement. Even if the victim meets the requirements, the victim may not be able to find a vacant bed or unit. It's clear that more capacity – tailored to meet the particular, culturally competent needs of trafficking survivors – is necessary.

The new law does not provide funding for these new residential facilities to be designed and constructed. It only permits OTDA to contract with non-government organizations to provide these services to human trafficking victims.

This new law will become effective on December 22, 2018.

NEW LAW: Eliminates the need for prosecutors to prove force, fraud or coercion to find an individual guilty of sex trafficking of a child under 18 (A6823C/S5988B)

This new law amends the penal law in relation to establishing the crime of sex trafficking of a child and in relation to promoting prostitution. An individual is now guilty of sex trafficking a child when he or she, being 21 years old or more, intentionally advances or profits from prostitution of another person who is less than 18 years old. Knowledge by the defendant of the age of the victim doesn't need to be proven. Sex trafficking is a class B felony.

Further, the new law aligns state law with existing federal law that allows prosecutors to bring an action without a showing of force, fraud or coercion. Requiring such proof often obligated a victim to testify against the trafficker, which can re-traumatize an already highly traumatized victim. Moreover, an under-aged victim is sometimes unwilling to testify against the trafficker if the victim believes he or she is involved romantically with the trafficker.

This new law also aligns the penal law with the family court act, which creates a presumption that a minor charged with prostitution is a sex trafficking victim. In this way,

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courts will no longer criminalize a sex trafficking victim who has been compelled by a trafficker to engage in prostitution.

The new law will become effective on November 13, 2018

NEW LAW: Allows victims of human trafficking to request their cases be moved to a specialized Human Trafficking Intervention Court located elsewhere in the county or an adjoining county, if one exists (A9870/S7836)

In New York State, there are 11 special human trafficking criminal courts – one for each of the five boroughs of New York City and six in Long Island and Upstate. These courts were created to provide alternatives to incarceration for people arrested on prostitution charges, premised on the understanding that these defendants were also victims of human trafficking.

These courts link victims of human trafficking and commercial sexual exploitation to crucial services that are appropriate for their individual situations, including counseling, job training, education, housing, medical assistance, immigration services, and substance abuse and mental health treatment. Through an extensive collaboration of dedicated judges, prosecutors, defense lawyers and service providers, the goal is to halt the systematic pattern of shuffling these victims through the court system without addressing the underlying cause of why they were arrested in the first place.

This new law amends the criminal procedure law and the judiciary law to permit a sex trafficking victim to request their case be moved to another local criminal court in the same or an adjoining county where a human trafficking court has been established.

Further, the new law permits the establishment of additional human trafficking courts, if needed.

The new law became effective on August 15, 2018, the date it was signed into law.

NEW LAW: A bill requiring lodging facilities to post information regarding services available to victims of human trafficking (A10425A/S8874)

According to the Polaris Project, trafficking networks often rely on legitimate businesses, such as hotels, to sustain their illegal operations. Hotels may be used to house victims while in transit or for the purchase and sale of victims' forced services, with traffickers running their business out of hotel rooms. The traffickers' ability to pay for rooms in cash or to change rooms or hotel locations on a frequent basis can make it easy for traffickers to avoid detection.

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Because hotels are a known location for victim exploitation, they are an ideal location to provide information about services for victims. This information can inform both the victims and other hotel guests about the availability of services for human trafficking victims.

This new law amends the general business law to require any inn, hotel, motel, motor court, or other establishment that provides lodging (excluding buildings with five or fewer rooms that is occupied as a residence by the owner) to provide information cards in public areas, including public restrooms, individual guest rooms and near the public entrance or other conspicuous place in plain sight of the guests and employees. The information will be developed by the Office of Temporary and Disability Services, in consultation with the NYS Interagency Task Force on Human Trafficking, the U.S. Department of Homeland Security, or the individual lodging facility.

The new law became effective on October 14, 2018.

Other bills approved by the Senate and Assembly and waiting action by the Governor:

1. A8401C/S8977 -- A bill establishing a sexual assault survivor bill of rights to ensure victims are informed of their legal rights and available services and requires all law enforcement agencies to adopt policies for communicating with survivors that are victim-focused and trauma-informed.
2. A588B/S8821A -- A bill providing feminine hygiene products at no cost to incarcerated women.

The following legislation would have had a direct positive impact on victims of domestic violence and their families, yet none were approved this session by both the Senate and Assembly. NYSCADV will continue its advocacy in support of these bills:

1. A3110/S5116 -- The Domestic Violence Survivors Justice Act, which would permit judges to grant alternative sentences to a defendant if at the time of the offense, the defendant was a victim of domestic violence subjected to “substantial physical, sexual or psychological abuse” inflicted by a member of the same family or household; the abuse was a “significant contributing factor” to the defendant’s participation in the crime; and, a sentence under current law would be “unduly harsh.”



2. A5921 -- A bill requiring the simplification and expansion of information in the notice currently provided to domestic violence survivors.
3. A2919/S405 -- A bill protecting the right of individuals to call for police or emergency assistance without direct or indirect penalty or reprisal for doing so.
4. A1481A/S5565A -- A bill allowing employees a reasonable accommodation in taking time off from employment to seek medical attention, obtain services from a domestic violence program, participate in safety planning, and obtain legal services.
5. A1641A/S2725A -- A bill criminalizing the non-consensual disclosure of sexually explicit images that were obtained under reasonable expectations of privacy.
6. A9565A/S7756A -- A bill developing a training program to identify individuals who have experienced Adverse Childhood Experiences, develop effective strategies for assisting and interacting with these individuals, and locate programs and services to which individuals with ACEs may be referred to help build their resilience.
7. A1748/S2796 -- The Reproductive Health Act, which would update New York's abortion statutes to address constitutional flaws in our laws and recognize a woman's fundamental right to access safe, legal abortion.
8. A5885A/S6575 -- The Child Victims Act, which would extend the tolling of the statute of limitations for sexual offenses committed against a minor from age 18 to age 23. The bill also would establish a 50-year statute of limitations period for civil causes of actions relating to sexual offenses committed against a minor, provide a one-year window in which to bring previously time-barred civil claims, and eliminate the need to file a notice of claim for sexual offenses committed against a minor.

If you have questions about NYSCADV's legislative priorities, please contact Joan Gerhardt, director of public policy and advocacy, at jgerhardt@nyscadv.org.