

New York's tough anti-stalking law

It's a crime

In simplest terms, stalking is the unwanted pursuit of another person. It includes repeated harassing or threatening behavior. In domestic violence situations, stalking is a very effective control tactic used by abusers. As technologies develop, abusers have additional ways of stalking – through email, texting, social sites and on the Internet. Stalking often escalates, may turn violent and sometimes results in death. For victims of stalking, common everyday noises, like the ring of a phone or a knock on the door, can cause fear.

Stalking is a crime that affects people from all walks of life. While the most publicized cases are those involving celebrities, the most common victims are ex-wives and girlfriends. Taking a stalker off the streets may help diffuse a volatile situation or give a victim time to take steps to increase his or her safety.

Victims of stalking by family or household members may go to Family Court as well as criminal court. The law authorizes the courts to order surrender of an abuser's firearms and revoke firearms licenses. New York law also has stiff penalties for violating orders of protection and requires courts to consider domestic violence in child custody and visitation cases.

Penalties

The enactment of New York's Anti-Stalking Law in 1999 established the specific offense of stalking and allowed the prosecution of persons who engage in an intentional course of stalking conduct. Courts can impose severe penalties against dangerous individuals found guilty of this crime.

Types of stalking and penalties

- ◆ A person who repeatedly threatens the health, safety or property of a person, or repeatedly contacts or follows a person after being clearly told not to do so, upon conviction, faces up to three months in jail for the stalking offense.
- ◆ A person who engages in a course of conduct that intentionally places another person in fear of physical injury, death or the commission of a sex offense, upon conviction, faces up to a year in jail for the stalking offense.
- ◆ A person aged 21 or older who stalks a child, or a person who displays a weapon while intentionally engaging in a course of conduct that places another person in fear of physical injury, death or the commission of a sex offense, upon conviction, faces up to four years in prison for the stalking offense.
- ◆ A stalker who causes physical injury or commits a specified sex offense while stalking, upon conviction, faces up to seven years in prison for the stalking offense.

Important phone numbers

NYS Domestic and Sexual Violence Hotline

English 800-942-6906
Spanish 800-942-6908*
*After Jan. 1, 2014, dial 800-942-6906 for both English and Spanish.

NYC Domestic Violence Hotline

800-621-4673
or dial 311
TTY/TDD 866-604-5350
Police or Ambulance 911

National Domestic Violence Hotline

800-799-SAFE (7233)

Assemblymember John T. McDonald III

www.assembly.state.ny.us

Room 417, LOB
Albany, NY 12248
518-455-4474

mcdonaldj@assembly.state.ny.us

A prosecutor's case can be made stronger if the stalking or harassment is reported to the police each time.

Domestic Violence and Stalking



Know the laws

**Provided by
Assemblymember
John T. McDonald III**

www.assembly.state.ny.us

New York State's domestic violence statistics

Domestic violence statistics for 2011 bring attention to several issues. There were 89 intimate partner homicides in New York State – 49 in New York City and 40 in the rest of the state. This represents a 20 percent increase from 2010, bringing the number of intimate partner homicides back to 2008 and 2009 levels. Police agencies outside of New York City reported 118,556 total assaults – 25 percent were committed by intimate partners and, as in 2010, 80 percent of these were female victims. Since 2010, total assaults are down 3 percent or by 3,196 but intimate partner assaults are up by 4 percent. While the number of orders of protection issued remained relatively stable - less than a 1 percent decrease - between 2010 and 2011, it had been steadily increasing, rising by 34 percent from 2007 to 2010. The New York State Legislature has passed several laws to stiffen penalties for domestic crimes and increase protection for victims.

New York's laws:

- ◆ require police to arrest abusers who violate "stay away" orders of protection or commit a felony or a misdemeanor against another family or household member
- ◆ enable victims to bring their cases to Family Court and criminal court, instead of forcing victims to choose one
- ◆ provide for orders of protection for up to 2 years for violations, 5 years for misdemeanors and 8 years for felonies
- ◆ provide that violators face felony charges when harassing or threatening a victim during an order of protection violation
- ◆ provide that – in the case of repeated violation of an order of protection, including threatening phone calls, faxes or email messages – violators could face up to four years in prison (seven years if a victim suffers physical injury)
- ◆ require that courts issuing orders of protection revoke or suspend the abuser's firearms license as well as take away their weapons under certain circumstances
- ◆ maintain a statewide *Orders of Protection Registry* to aid police and courts
- ◆ promote more rigorous interstate enforcement of orders of protection
- ◆ expand the definition of family/household members to include victims who are or who have been in an intimate relationship regardless of whether they have lived with the abuser or whether the relationship is sexual
- ◆ permit courts to order the abuser to pay up to \$15,000 restitution for felonies and up to \$10,000 for all non-felonies to the victim
- ◆ require courts to consider domestic violence in child custody and visitation cases
- ◆ restrict visitation/custody rights of persons convicted of murdering a child's parent or guardian, sibling or half-sibling, unless the court finds visitation is in the child's best interest or the convicted person proves the murder was in response to domestic violence
- ◆ authorize issuing a temporary child support order and order of protection at the same time
- ◆ require police to determine the primary physical aggressor, so that victims of domestic violence are not inappropriately arrested along with their abusers when more than one person alleges violence
- ◆ enable a local criminal court to issue a temporary order of protection or modify a temporary order of protection issued by a Family Court when Family Court or Supreme Court is not in session
- ◆ establish crimes of criminal obstruction of breathing or blood circulation, strangulation in the second degree, and strangulation in the first degree. All offenses are added to the list of family offenses (2010 Strangulation and Related Offenses law, Ch. 405 of 2010)

There is help:

- ◆ **For immediate assistance, call 911.** When the police arrive, give a complete statement of what happened. Get the reporting officer's name and badge number as well as a copy of the Domestic Incident Report.
- ◆ **A victim's rights notice is available** from the police, the courts and local hospitals explaining what police and courts can do to help.
- ◆ **You can go to Family Court and/or criminal court** to obtain an order of protection.
- ◆ **Contact the NYS Domestic & Sexual Violence Hotline or your local domestic violence program** for support and information about services, emergency shelters and legal options.

Did you know?

In New York State in 2011

- ◆ Family offense petitions totaled 1,117 filed by individuals under the age of 21 in New York State Family Courts under the expanded definition of "intimate relationship," which was a 3 percent decrease from 2010, when 1,151 were filed.
- ◆ One in 10 high school students surveyed in 2011 reported being hit, slapped or physically hurt on purpose by their boyfriend or girlfriend and 1 in 14 reported being physically forced to have sexual intercourse during the previous 12 months.

Over 318,000 hotline calls were received in New York State in 2011

- ◆ New York State's two Domestic and Sexual Violence Hotlines received 15,736 calls, an 11 percent increase from 2010.
- ◆ The New York City Domestic Violence Hotline received 114,780 calls, a 4 percent decrease from 2010.
- ◆ The OCFS-approved local domestic violence hotlines received 187,908 calls in 2011, a slight increase (less than 1 percent) from 2010.